

Department of Human Services
Programs, Services and Activities

Self-Evaluation Plan

Title II of the Americans with Disabilities Act (ADA)

August 1, 2010 -- July 31, 2012

Issued and Approved
by the Director
Department of Human Services

Lillian B. Koller 07/19/10
Lillian B. Koller Date

Executive Summary

This Self-Evaluation Plan is a voluntary effort to comply with Title II of the Americans with Disabilities Act (ADA) at the Hawai'i Department of Human Services (DHS). Purposes of the plan include, and are not limited to, (1) identifying services, policies, and processes that need attention, (2) correcting any discrepancies found, (3) maintaining compliance with ADA relative to State-owned and leased facilities, and (4) assuring communication access via TDD communications, emergency warning provisions for disabled individuals, notices, and dissemination of policies regarding access and non-discrimination.

This two-year plan (August 1, 2010-July 31, 2012) is general in nature to allow for flexibility in provision of services as well as to allow for changing needs and requirements. More specific details and objectives will be provided on an annual basis by DHS Divisions, Administratively Attached Agencies and Commissions. Input will be sought from disabled individuals. Unannounced site visits will be conducted on a regular basis.

In summary, here are a few preliminary findings discussed in "corrective actions."

- ✓ Civil Rights Review Feb 1-5, 2010 (Appendix A)
- ✓ Director's ICF relative to non-discrimination policies
- ✓ Designation of ADA Coordinator and Task Force Representatives
- ✓ Key activities to include training, meetings, dissemination, process revisions, and posting of required notices
- ✓ Involvement of persons with disabilities
- ✓ Update programs, services and activities as needed
- ✓ Establish consistent, formal procedures for reasonable accommodations and modifications
- ✓ Remind supervisors and staff of their role in providing reasonable accommodations and modifications on a timely basis
- ✓ Inform all sub-recipients and POS providers of their obligations
- ✓ Train sub-recipients and POS providers and monitor compliance
- ✓ Modify POS and other contracts to carry specific language relative to appropriate assurances required by respective funding source/s
- ✓ Review, and modify as needed, licensing and certification regulations
- ✓ Monitor capabilities of staff in using TDD, GTE, TRS and other assistive devices
- ✓ Monitor and inform about written emergency evacuation procedures for persons with disabilities in State-owned and leased buildings
- ✓ Collect data as required to support integration of individuals with disabilities into programs, activities and services

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DEPARTMENT OF HUMAN SERVICES
PROGRAMS, SERVICES AND ACTIVITIES

Self-Evaluation Plan

Introduction

Purpose of Self-Evaluation

State and Local governments are required to conduct self-evaluations of services, policies and practices, in accordance with Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. Section 12101. The purpose of self-evaluation is to identify services, policies and practices that do not comply with Title II requirements, and to correct any discrepancies to bring an entity into compliance.

A Civil Rights Compliance Review conducted by the Office of Civil Rights Food and Nutrition Service (FNS) of the U. S. Department of Agriculture (USDA) in 2010 focused on the following six key areas:

1. Civil Rights Training of Local Staff
2. Policies and Services for Limited English Proficient (LEP) clients
3. Building and Program Accessibility for Persons with Disabilities.
4. Public Notification on the Non-Discrimination Policy and the Procedures to File Discrimination Complaints.
5. Collection of Ethnic, Racial and Gender Data on Applicants and Recipients of the Supplemental Nutrition Assistance Program (SNAP)
6. Collection of Data on the Limited English Proficient populations in Hawaii's service areas.

Required corrective actions as well as recommendations for improvement can be found in the Feb 1-5, 2010 Civil Rights Compliance Review by the Food and Nutrition Service of USDA (Appendix A).

Non-Discrimination Statement

It is the policy of the State of Hawaii that no qualified individual with a disability is excluded from participation in, denied the benefit of, or is otherwise subjected to discrimination by any program, service or activity of the State on the basis of disability. This is also supported by the Department of Human Services (DHS) Policy and Procedures 4.10.3 dated July 9, 2009 (Appendix B) and 4.10.4 dated February 17, 2009 (Appendix C).

In keeping with this policy, the Department of Human Services (DHS) is committed to providing an equal opportunity for all persons to participate in its services, programs and activities. This commitment is reflected in Director's Memorandum 09-01 dated January 5, 2009 (Appendix D), an internal communication informing staff of the department's responsibilities.

The DHS' non-discrimination statement and all related directives, memoranda and public notice, apply to all Divisions as well as its three administratively attached agencies. The Hawaii Public Housing Authority (HPHA), an administratively attached agency, which has considerable autonomy, has taken additional measures to ensure that the public is informed of its commitment to non-discrimination specifically in public housing.

Although the DHS provides an equal opportunity to participate in its services, programs and activities, persons who believe they have been discriminated against may file a complaint in accordance with the Departmental Discrimination Complaint Procedures (Appendix E).

Designation of ADA Coordinator

The Department's Civil Rights Compliance Staff is the designated DHS ADA Coordinator. Questions, complaints and/or concerns may be routed to:

DHS - Personnel Office
Civil Rights Compliance Staff
P.O. Box 339
Honolulu, Hawaii 96809-0339
Phone: (808) 586-4955(V) 586-4962 (TDD)
Fax: 586-4990

gwatts@dhs.hawaii.gov

The HPHA ADA Coordinator (Steven K. Chang) can be contacted at:

The Hawaii Housing Authority
1002 North School Street, Bldg. J
Honolulu, Hawaii 96817
Phone: (808) 832-4680 (V) (808) 832-6083 (TDD)
Fax: 832-3493

Self-Evaluation Process Within the Department

Key Activities

An ACCESS Task Force, composed of representatives from the various programs and staff offices, was organized to assist the ADA Coordinator in the self-evaluation process and other compliance activities. The following departmental employees serve on the Task Force and contributed to revisions to this two-year plan:

| | |
|-----------------|--|
| Steven K. Chang | Hawaii Public Housing Authority (HPHA) |
| Lee Dean | Social Services Division (SSD) |
| Arleen Fujimoto | Management Services Office (MSO/QC) |
| Ricky Higashide | Management Services Office (MSO) |
| Mike Imai | Fiscal Management Office (FMO) |
| Katie Keim | Vocational Rehabilitation & Services for the Blind Division (VRSBD) |
| Luanne Murakami | Benefit, Employment & Support Services Division (BESSD) |
| Alan Takahashi | Med-QUEST Division (MQD) |
| Martha Torney | Office of Youth Services (OYS) |
| John Walters | Social Services Division (SSD) |
| Geneva Watts | Personnel Office, Civil Rights (CRCS) |
| Lim Yong | Med-QUEST Division (MQD) |

The key activities of the DHS relative to the self-evaluation process include, and are not limited to:

Meeting to establish time frame for completion of Self-Evaluation Report
Orientation of Task Force on Title II by the Disabilities and Communication
Access Board
Policies & Practices Review
Dissemination of ADA Notice
Dissemination of Self-Evaluation Plan
Orientation on Communication Access
Discuss plan of corrective action for practices re access (FNS)
Meeting regarding addressing areas of non-compliance
Meeting regarding development of procedures to respond to requests for
building modifications and auxiliary aids
Coordination of facilities review
Dissemination of Self-Evaluation Report
Meeting with the Hawaii Public Housing Authority staff regarding Self
Evaluation for Programs and Services
Dissemination of publication, "Emergency Procedures for Employees with
Disabilities in Office Occupancies" to Division Administrators and Staff
Officers. (to assist offices in refining emergency evacuation procedures,
which address the needs of both employees and service recipients with
disabilities)

In addition to being part of the DHS' Access Task Force, the HPHA representatives will coordinate the internal self-evaluation process, which includes obtaining feedback from staff involved in providing programs services and activities to the public and who are responsible for HPHA facilities.

Involvement of People with Disabilities

Persons with disabilities are involved in the self-evaluation process at various levels. Within the Department, employees with disabilities are invited to participate in compliance activities. To obtain input from external organizations, the Self-Evaluation Report will be submitted to the following organizations that provide services to persons with disabilities:

Disability and Communication Access Board
Department of Health
919 Ala Moana Boulevard, Room 101
Honolulu, Hawaii 96814 dcab@doh.hawaii.gov

Ho'opono, Services for the Blind Branch
1901 Bachelot Street
Honolulu, Hawaii 96817

Aloha State Association of the Deaf
P. O. Box 88591
Honolulu, Hawaii 96830 asad0507@yahoo.com

Programs and Services

The DHS offers a wide range of state and federally funded programs and services to the public through four divisions and three administratively attached agencies and commissions. Such programs and services include, and are not limited to, welfare assistance (financial and food stamps), employment and training, child care, medical assistance, child welfare services, adult and community care services, vocational rehabilitation, housing, youth services and a commission on the status of women.

Description of Programs and Services

1. Benefit, Employment & Support Services Division (BESSD)

The mission of BESSD, is to help economically disadvantaged persons attain self-sufficiency. In an effort to achieve this, BESSD administers Financial Assistance, Supplemental Nutrition Assistance Program (formerly the Food Stamps Program, and

Employment and Training Services. The Division also provides Child Care Connection Reimbursement services for families in which the parent(s) is/are employed or in training. Effective July 1, 2010, the Homeless Program was transferred to BESSD from the Hawaii Public Housing Authority.

2. Med-QUEST Division (MQD)

The mission of the Med-QUEST (MQD) is to provide the overall management of the plans, policies, regulations and procedures of the Department's medical assistance programs, public information, staff and clerical assistance and support services; to develop and maintain working relationships with health plans, providers, Federal and State authorities, community agencies, client advocacy groups and others. The Division is also responsible for providing home and community based support services to disabled children and adults.

3. Social Services Division (SSD)

SSD administers the Child Welfare Services Branch, more commonly known as Child Protective Services or CPS, and the Adult and Community Care Services Branch, more commonly known as Adult Protective Services or APS.

4. Vocational Rehabilitation and Services for the Blind Division (VRSBD)

VRSBD is divided into three (3) programs: Vocational Rehabilitation, Services for the Blind, and the Disability Determination programs.

Vocational Rehabilitation - The program provides services to eligible individuals with disabilities to become productive members of Hawaii's workforce.

Ho'opono - Services for the Blind - Services to eligible blind, deaf/blind and visually-impaired individuals include vocational rehabilitation, adjustment classes, public education, and blindness prevention activities. Ho'opono also maintains a statewide blind registry.

Disability Determination - The program determines disability for Social Security Disability Insurance and Supplemental Security Income benefits.

5. Hawaii Housing Authority (HPHA) (Administratively Attached)

The HPHA administers federal and state public housing and rental subsidy programs, other miscellaneous rental programs. The primary service of these programs is providing safe, decent and affordable housing to low and very low income families.

6. Office of Youth Services (OYS) (Administratively Attached)
(website: www.hawaii.gov/dhs/youth/oys/)

The OYS was established by legislature in 1989 and administratively placed within DHS. The OYS provides and coordinates a continuum of services and programs for youth-at-risk to prevent delinquency and reduce the incidence of recidivism. The OYS also strives to provide a clear sense of responsibility and accountability for all youth services in Hawaii. Although a core responsibility of the OYS is to manage and operate the Hawaii Youth Correctional Facility, the agency places great emphasis on providing and supporting "front end" prevention, diversion, and intervention services.

The OYS Focuses on programs that address youths' needs from prevention to incarceration and aftercare. The OYS administers the following programs and service through Purchase of Service (POS) providers who are contracted by the OYS.

- Positive Youth Development
- Non-School Hours Programs
- Youth Gang Prevention and Intervention
- Truancy Prevention
- Outreach and Advocacy
- Education/Vocation Services
- Homeless Youth Services
- Community-Based Residential Services

The Hawaii Youth Correctional Facility insures public safety by providing programs and services that work towards successful reintegration of incarcerated youths within a safe, secure and just environment, which promotes adolescent development.

7. Commission on the Status of Women (CSW)

This administratively attached commission is a two-person office providing services specific to the needs of women.

Support Services

There are five staff offices that provide support services to the aforementioned divisions and administratively attached agencies: 1) Administrative Appeals Office, 2) Fiscal Management Office, 3) Office of Information Technology, 4) Management Services Office and 5) Personnel Office. Of these, the Administrative Appeals Office, which conducts fair hearings for clients, and the Personnel Office, which provides employment services, maintain public contact on a regular basis.

Officials Responsible for Programs and Services

The following is a list of officials responsible for the planning, preparation, coordination and delivery of programs, services and activities under their supervision.

DHS Director

Lillian Koller

Divisions

BESSD

Pankaj Bhanot

Division Administrator

MQD

Dr. Kenneth Fink

Division Administrator

Attached Agencies

OYS

David Hipp

Executive Director

CSW

Sharon Ferguson-Quick

Executive Director

VRSBD

Joe Cordova

Division Administrator

SSD

Amy Tsark

Acting Division Administrator

HPHA

Denise Wise

Executive Director

Self-Evaluation Process for Programs and Services

Equal Opportunity to Participate and Benefit

ADA states “a) A public entity may not deny a qualified individual with a disability an opportunity to participate and benefit from any program; b) a public entity may not afford an opportunity that is not equal to or not as effective as that provided others; and c) a public entity may not impose eligibility criteria for participation in programs that screen out people with disabilities either directly or indirectly, unless such criteria are necessary for the provision of the program’s activities or services.”

As indicated above, the DHS provides a wide range of programs, services, and activities to the public. Although said programs, services and activities are designed and administered to serve all individuals equally, there may be circumstances in which participation of a person with a disability may be excluded or restricted. However, the DHS believes that these exclusions and/or restrictions are necessary either to the operations of a program, or to ensure the safety of program participants, and do not discriminate against persons with disabilities. The following identifies exclusions or restrictions to various programs, and provides an explanation as to why the DHS believes they are necessary.

The Child Care Connection Hawaii’s licensing requirements for child care providers may restrict or exclude the participation of certain individuals with disabilities. The provision of child care, usually for children not yet school

age, requires the provider to be able to meet all the health and safety needs of the children in their care. For example, a provider must be able to carry infants/toddlers and escort older children out of a home and/or facility without assistance. If persons with disabilities can demonstrate that they are able to meet all health and safety requirements, as well as other eligibility criteria, they will not be denied an opportunity to become licensed.

As previously stated, the MQD administers two major medical assistance programs: the Hawaii QUEST Program and the QUEST Expanded Access (QExA) program. The QExA program is designed to better integrate and deliver health care to Individuals who are sixty-five years or older, blind, or certified as disabled by the Social Security Administration or by the State, who may have more complex needs or community-based services requiring a greater degree of coordination. Accordingly these individuals are directed to the QExA program and are ineligible to participate in the Hawaii QUEST Program.

With respect to the services under the SSD, there are circumstances when participation of persons with disabilities may be excluded or restricted. For child welfare services, the choice of foster homes for children with disabilities may be restricted to those homes where the family is properly trained to care for these children. Additionally, foster home certification criteria may exclude certain prospective foster parents with disabilities, if they are unable to demonstrate how they would care for the needs of children. In both instances, the exclusions or restrictions are necessary for the health and safety of all involved parties.

A person with a disability may be excluded from participating in an adult day care program, if the nature of the disability is such that the person would be better served through another program. A skilled nursing or intermediate care facility, rather than an adult day care, for example, may be a better choice for a severely disabled individual. Again, this exclusion is necessary to the health and safety of the participants.

The VRSBD is unique in that all of its programs and services are designed to assist persons with disabilities. However, because participation is contingent upon the nature of a person's disability, there may be circumstances where an individual may be excluded or restricted from participation in any given program. For example, eligibility requirements set forth by the Rehabilitation Act and the Social Security Act, may exclude ineligible persons from participation in the Vocational Rehabilitation and the Disability Determination programs, respectively. The exclusion of such individuals is necessary to comply with federal requirements. To disregard these requirements may fundamentally alter the nature of the programs and result in fiscal sanctions or loss of Federal funding.

In its public housing programs, HPHA provides accessible housing units to eligible tenants with disabilities (i.e., mobility impaired, and hearing and visually impaired). Hawaii Administrative Rules Section 17-2028-40, "Occupancy of Accessible Units" outlines procedures for filling said units.

In terms of services provided at the HYCF, there may be circumstances when youth with disabilities may be restricted from participation in a "work line." For example, a youth who has a mobility impairment may be restricted or excluded from working on the HYCF's ranch. However, the youth may be assigned to other work activities, such as performing work in an office setting. The exclusion or restriction is necessary for health and safety reasons.

Reasonable Program Modifications

"Public entities are required to make reasonable modifications to policies or practices in order to avoid discrimination towards people with disabilities. A modification is not required, however, if it would fundamentally alter the nature of the program or activity."

Within the DHS, Divisions differ in their approach to responding to requests for modifications. The following are some examples of modifications made to departmental programs, services and activities.

The VRSBD has an established practice for providing program modifications to clients with disabilities. Essentially, the VRSBD notifies the public of the availability of program modifications upon request, through public meeting notices, appointment letters, and telephone contacts, and is otherwise open to provide modifications that would effectively meet the needs of an individual, taking into consideration his/her preference. For example, while most clients/applicants are responsible for completing applications and other forms in order to receive services, when a cognitively impaired client or applicant is unable to complete necessary paperwork, arrangements are made by VRSBD staff, to ensure that proper assistance is provided.

The eligibility workers of the income maintenance and medical assistance programs administered by the BESSD and MQD, respectively, are advised, and are aware, that office eligibility interviews, which are normally required, may be waived for persons with disabilities. If participants are unable to come to the office, alternative methods of interviewing are practiced. For instance, telephone interviews, home visits, or interviews with an authorized representative are regularly conducted to ensure that persons with disabilities are provided an equal opportunity to participate in programs and services.

At HPHA, reasonable accommodations are made to enable persons with disabilities to have an equal housing opportunity. Similar to the BESSD and MQD, eligibility reviews that are normally conducted in person at various HPHA offices can be conducted by telephone, with an authorized representative, or at an off-site location that is convenient to both parties, including at the client's residence. In addition, modifications to a building or unit may be provided to allow better access to the facilities, such as adding a ramp or widening a doorway.

Understanding that very few youth with disabilities are committed to the HYCF, the OYS modifies work and recreational programs, when necessary, to allow participation of such youth. For example, if youth with a mobility-impairment were unable to participate in a recreational activity, the OYS would engage in finding alternative activities for that youth. Similarly, for work programs, modifications are made to allow participation by a youth with a disability in the most integrated setting possible.

A departmental "Equal Opportunity to Services" Notice informs participants that the DHS can make modifications to their program to accommodate individuals. It informs clientele that the DHS will provide sign or other language interpreters and information in alternate formats.

Corrective Action:

Although most programs have informal processes for modifying their practices, a formal procedure consistently applied throughout the DHS is needed to address the needs of persons with disabilities. This will help to assure that all staff are aware of the Department's obligation to provide modifications and how to respond to requests for same.

Additionally, the DHS recognizes that training is necessary for staff that has direct contact with the public. Therefore, the DHS will make reasonable efforts to ensure that staff are properly trained in accepting and processing requests for reasonable accommodations and modifications.

Surcharges and Additional Requirements

"Public entities may not impose extra charges upon people with disabilities to cover the costs of effective communication, program modifications, or access features, and may not impose any additional requirements or burdens on people with disabilities that they do not require of all other participants in the program."

For all DHS programs, services and activities, there are no circumstances in which persons with disabilities would be asked to pay a fee or meet any other requirements not imposed on other program participants.

Integrated Settings and Separate Programs

"Separate programs or activities are permitted only when necessary to ensure equal opportunity. When separate programs are provided, qualified people with disabilities still cannot be excluded from participating in regular programs."

It is the Department's policy that participants of its programs, services and activities shall not be denied the opportunity to participate in a regular (integrated) program even though another separate program may exist and which may be more appropriate.

As mentioned above, all VRSBD participants are people with disabilities. Separate programs, services and activities exist to fulfill the varied needs of such individuals. For example, certain disabilities may require special services, such as sign language interpreters, readers, Braille materials, etc., to ensure equal access to programs and services. In addition, the Randolph-Sheppard Act gives priority to persons who are blind to operate vending facilities on Federal property. Similarly, the Hawaii Revised Statutes, Section 102-14, authorize persons who are blind and visually impaired to operate vending facilities and machines in State or County public buildings.

While most youth attend school and participate in classroom activities, the HYCF occasionally provides tutoring for youth in their living quarters when it is determined that their disruptive behavior is detrimental to the rest of students in the classroom. If such youth can demonstrate that they can participate in school without being disruptive, they are allowed to return and engage in regular classroom activities (i.e., integrated setting).

Contracting With External Organizations

"When a public entity contracts with other organizations to provide programs and services to the entity's constituents, the public entity retains responsibility for ensuring that the contractor provides the services and activities in a non-discriminatory manner consistent with the requirements of Title II" and other Federal regulations.

An extensive number of contractors currently provide services on behalf of DHS and its attached agencies and, therefore, we have elected not to list them in this document. However, for specific information regarding contracts within the various programs, inquiries may be made with the DHS Civil Rights Compliance Officer at the address and phone number listed above. All DHS non-bid contracts contain the following language:

"No person performing work under this Agreement, subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state or county law."

Furthermore, standard language requiring contractors to comply with the law, read as follows:

"The CONTRACTOR shall comply with all federal, state, and county law, ordinance, codes, rules and regulations, as the same may be amended from time to time, that in any way affect the Contractor's performance of this Agreement."

The OYS provides services exclusively through Purchase of Service contracts. Included in their contracts is a section entitled "General Conditions for Health and Human Services Contracts" (AG Form 103F, General Conditions) which includes the following language:

- "1.3 Compliance with Laws
- 1.3.3 Persons with Disabilities. The PROVIDER shall implement and maintain all practices, policies and procedures required by Federal, State, or County law, including but not limited to the Americans with Disabilities Act 942 U.S.C. 12101, et seq.) and the Rehabilitation Act (29 U.S.C. 701, et seq.)
- 1.3.4 Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the PROVIDER, shall engage in any discrimination that is prohibited by any applicable Federal, State, or County law."

The HPHA contracts with private property management companies to operate many State and Federal public housing projects. To ensure that contractors are aware of their obligation under the law, HPHA provides training in Section 504 of the Rehabilitation Act.

BESSD's Homeless Branch staff received ADA (Title II and III) training, from the State Commission on Persons with Disabilities to enable them to monitor their contracted service providers.

Corrective Action

Although contractors are informed of their obligation to comply with all federal, state and county laws, the DHS believes that compliance with the ADA should be discussed directly with the contracting agent, to ensure understanding of their obligation. Furthermore, DHS shall ensure that staff who monitor the contracts for compliance have full knowledge of ADA requirements.

The DHS will review its contracts to incorporate more specific language relative to compliance with the ADA and other civil rights laws, rules and regulations including, and not limited to, inclusion of specific assurances appropriate to the respective funding entities.

BESSD contracting agent/contract monitors are trained to ensure that contracts for compliance have full knowledge of the ADA requirements and have been trained. In addition, BESSD contracting agent/monitors will incorporate more specific language to be in compliance with ADA and other civil rights laws, rules and regulations.

A training and development module, representing combined efforts of DHS and the Office of Language Access at Hawaii's Department of Labor and Industrial Relations, is available at DHS' home page <http://www.hawaii.gov/dhs> in the Civil Rights Corner.

Procurement Contracts

"In selecting procurement contractors, a public entity may not discriminate on the basis of disability." There would be no circumstances in which consideration related to disability would influence the choice of a procurement contractor.

Communication Access

The State of Hawaii shall ensure that all individuals with disabilities have communication access to programs, services and activities of the State, which are equally effective as that provided to individuals without disabilities. "...departments and agencies of the State of Hawaii shall provide specific communication access in the form of auxiliary aids or services upon the request of a qualified individual with a disability." It is also State policy that a request must be received five to seven days prior to the date of an event that an auxiliary aid or service is needed.

Auxiliary Aids and Services

In keeping with the aforementioned policy, the DHS provides the following auxiliary aids and services upon request by a qualified individual with a disability:

Visual

Large Print

Readers

Braille

Audiocassette

Magnifier

Computer Diskette

Hearing and Speech

Sign Language Interpreters

TDD

Telephone Relay Service

Paper & Pen

Cognitive

Signage

Simplify Directions/Instructions

The following auxiliary aids and services are needed.

Hearing & Speech

* Assertive Listening Devices

* AM or FM System (ATRC)

<http://atrc.org/home/index1.htm>

e-mail atrc-info@atrc.org

1-800-645-3007

Assistive Technology

Resource Centers of

(ATRC) Hawaii

414 Kuwili Street, #104

Honolulu, HI 96817

Cognitive

Visual Displays

Pictorial Signage

*Will be made available upon request.

Corrective Action

Several divisions have an informal procedure for responding to requests for auxiliary aids and services, which includes the consideration of an individual's preference, and assesses the availability of other equally effective means of communication. DHS' Policy 4.10.3 applies.

TDD Communications The following is a list of DHS offices, which provide direct TDD communication:

Oahu

| | |
|-----------|------------------------|
| BESSD | Oahu Branch |
| BESSD | Employment & Training |
| BESSD | Waipahu First-to-Work |
| BESSD | Wahiawa First-to-Work |
| BESSD | Waianae First-to-Work |
| BESSD | Kailua First-to-Work |
| MQD | Eligibility Branch |
| VRSD | Administration |
| VRSD | Staff Services Office |
| VRSD | Oahu Branch |
| VRSD | Central Section |
| VRSD | Deaf Services Section |
| VRSD | East Section |
| VRSD | Metro Section |
| VRSD | West Section |
| VRSD | Windward Section |
| VRSD | Services for the Blind |
| HPHA | Applications Office |
| Personnel | Civil Rights |

Kauai

| | |
|------|---------------|
| MQD | Kauai Section |
| VRSD | Kauai Branch |

Hawaii

| | |
|-------|---------------------|
| BESSD | East Hawaii Section |
| BESSD | West Hawaii Section |
| MQD | East Hawaii Section |
| MQD | West Hawaii Section |
| VRSD | Hawaii Branch |

Maui

| | |
|-------|--------------|
| BESSD | Maui Section |
| MQD | Maui Section |
| VRSD | Maui Branch |

Molokai

| | |
|------|----------------------|
| VRSD | Molokai Field Office |
|------|----------------------|

Additional TDDs are available as follows:

1. BESSD - Investigations Office - Fraud Hotline
2. HYCF - Administrative Office
3. MQD - Administration
4. Maui Management Unit Office, Kauai Management Unit Office

The SSD explored the feasibility of installing TDDs for their Child Protective Services (CPS) and Adult Protective Services (APS) Hotlines. However, because these Hotlines are equipped with answering machines which do not accept TDD calls, it was determined that TDD hook-up was not feasible. Staff have been instructed that Telecommunications Relay Service (TRS) shall be utilized as an alternate effective means of communication. Moreover, if there is a high volume of calls that the SSD receives through the TRS, the Division shall reassess the need for TDDs.

Although some sections have TDD devices, there has been no reason to call upon use or the need has been so rare or infrequent. Sections say they call upon VR for assistance or request TRS assistance.

Emergency Warning Systems

The Office of the Director and Support Services Offices located in a state office building have emergency evacuation procedures that address the needs of persons with disabilities as do branch offices in DHS leased or state-owned buildings. The Fiscal Management Office is responsible for planning/coordinating with the Department of Education overall evacuation procedures during emergencies such as fire, for staff at the Liliuokalani Building.

The VRSBD, MQD, BESSD, SSD, OYS, and HYCF indicate that they have emergency evacuation procedures, which include safe egress for persons with disabilities. Said programs indicate the plans include a means to alert hard-of-hearing and deaf individuals of an activated alarm. While the HYCF has a strobe alarm in their newly built secured facility, the other divisions maintain that they have implemented a "buddy system" to assist hearing-impaired or deaf individuals.

In meeting with BESSD Oahu Branch (OB) and Neighbor Island Branch (NIB) Section Administrators, the Administrators report with confidence that their offices and units have developed written emergency evacuation procedures for egress of disabled staff, clients, visitors and for staff to alert hearing-impaired and deaf individuals of an activated alarm and other needed assistance. The plans are now routinely posted in the office. The Administrators will take necessary steps to ensure that the evacuation plan is posted.

Most HPHA administrative offices have emergency evacuation plans and procedures but not all offices specifically address the needs of persons with disabilities. In its public housing projects, some dwelling units are equipped with smoke detectors with strobe lights for the hearing-impaired. In

addition, at some of its high-rises for the elderly, a list of frail and disabled tenants (those with known ambulatory, hearing and vision impairments) is compiled and provided to the Honolulu Fire Department.

Corrective Action

Assistance will be provided by appropriate personnel to ensure that all DHS program offices have emergency evacuation procedures, which include plans to ensure for the safety of persons with disabilities.

Access Information

Access information is primarily provided over the telephone. Information on access is communicated in the following ways:

ADA notice 2010 to be posted in all DHS units in public areas (Appendix F)
Brochures/pamphlets
Public hearing notices
Dissemination of statewide policies regarding access and non-discrimination to staff.

Corrective Action

The self-evaluation process will determine whether all staff are knowledgeable about providing access information. As such, training sessions regarding this matter, shall be provided in order to assure an equal opportunity to services by persons with disabilities. Training can be face-to-face, video conferencing and/or computer based (CBT) <http://www.hawaii.gov/dhs> in Civil Rights Corner for example.

Facilities Assessment

Summary of Inaccessible Features

The HPHA will be conducting a survey to update the needs of its facilities to identify structural barriers that may impede physical access. In addition, for HPHA-owned Federal facilities, inaccessible elements will be addressed through its Capital Fund Program.

As part of the self-evaluation process, an assessment of DHS offices located in both state-owned and leased facilities will be conducted to determine the level of physical access to persons with disabilities.

Inaccessible elements of state buildings will be addressed administratively and/or through DAGS. For offices in leased facilities, inaccessible elements may either be addressed by the program, through reasonable modifications to policies and practices, and other program access options, or by removing structural barriers which impede access. Where offices

have agreed to modify their policies and practices to accommodate persons with disabilities, no renovations or improvements will be recommended.

Unannounced site visits to assist in identifying needs have begun, and will continue throughout 2012 on a regular basis and will be ongoing.

Program Access Options

Program access options for DHS facilities are listed in Appendix G.

The HPHA proposes to make reasonable modifications to its policies and practices and take whatever steps necessary to ensure that identified barriers are addressed programmatically. Program access options for the HPHA might include, but are not limited to:

- Performing outreach services
- Contacting clients by telephone
- Meeting with participants at an alternate accessible site
- Allowing an authorized representative to serve on behalf of a client
- Providing materials in alternate format
- Providing auxiliary aids and services

The BESSD is addressing and/or will be addressing program options for areas identified as needing attention in unannounced site visits in 2010.

Summary

While it is the intent of DHS to evaluate its programs, services, and activities on an ongoing basis, a formal self-evaluation and report will be available every two years.

APPENDICES

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| APPENDIX G | Program Access Options (DHS Facilities) (June 2010) |

**Supplemental Nutrition
Assistance Program
SNAP
Civil Right Compliance Review**

**Oahu, Hawaii
Feb 1-5, 2010**

**U.S. Department of Agriculture
Food and Nutrition Service
Western Region Office
Office of Civil Rights**

CIVIL RIGHTS REVIEW OF THE SAN DIEGO
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM
FINAL REPORT

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ACRONYMS

| | |
|-----------|--|
| CR..... | Civil Rights |
| DHS..... | Department of Human Services |
| CSD..... | Community Services Division |
| FFY..... | Federal Fiscal Year |
| FNS..... | Food and Nutrition Service |
| FSP..... | Food Stamp Program |
| HHSA..... | Health & Human Services Agency |
| ME..... | Management Evaluation |
| OCR..... | Office of Civil Rights |
| SAOR..... | State Agency Operations Review |
| SNAP..... | Supplemental Nutrition Assistance Program (formerly FSP) |
| USDA..... | United States Department of Agriculture |
| WRO..... | Western Region Office |

DEFINITIONS

Applicant. A person who applies in writing, electronically, verbally, or through a designated representative for participation in an FNS federally assisted or conducted program.

Beneficiaries. Individuals who receive assistance, services, or benefits under an FNS program (e.g., persons receiving food stamp benefits, WIC benefits, and/or commodities). Some programs commonly refer to these individuals as participants.

Civil Rights (CR). The nonpolitical rights of a citizen; the rights of personal liberty guaranteed to U.S. citizens by the 13th and 14th Amendments to the U.S. Constitution and by acts of Congress.

Civil Rights Act and Regulations. Title VI of the Civil Rights Act of 1964 and other authorities as outlined in Section II above and in the program-specific appendices.

Complainant. A person or group of persons who allege discrimination in the delivery of program benefits or services by a State agency, local agency, or other sub recipient.

Corrective Action Plan. A plan describing the actions to be taken to resolve noncompliance with civil rights regulations, instructions, policies, and guidelines.

Discrimination. The act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on their protected bases.

Federal Financial Assistance. Federal financial assistance includes, but is not limited to: Any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of assistance; Grants and loans of Federal funds, Grant or donation of Federal property and interests in property; Commodities; Detail of Federal personnel; Sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property or the furnishing of services without consideration or at a nominal consideration, that is reduced for the purpose of assisting the State agency, local agency, or other sub recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the State agency, local agency, or other sub recipient.

Federally Assisted Activities and Programs. Includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (whether provided through a State agency, local agency, or other sub recipient receiving Federal financial assistance or provided by others through contracts or other arrangements with the State agency, local agency or other sub recipient), and including work opportunities, cash, loans, or other assistance to individuals. For the

purposes of this definition, services, financial aid, or other benefits provided to individuals are those provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions that must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits to individuals provided in or through a facility with the aid of Federal financial assistance or such non-Federal resources.

Finding: Identification of non-compliance with program regulations, policies, and procedures. A corrective action is required.

FNS Regional OCR – The organizational unit reporting to the Office of the Regional Administrator that has delegated CR authority at the regional level.

Grassroots Organization. An organization at the local level that interacts directly with potential eligible's or participants, such as an advocacy organization, community action program, civic organization, migrant group, religious organization, neighborhood council, or other similar group.

Investigation. Formal gathering of facts by the appropriate Office of Civil Rights (OCR) or other authorized government agency or private contractor that will refute or substantiate an allegation of discrimination.

Limited English Proficiency (LEP) Persons. Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. Recipients of Federal financial assistance have a responsibility to take reasonable steps to ensure meaningful access to their programs and activities by person(s) with limited English proficiency.

Local Agency or Other Sub recipient. Any agency, organization, or corporation that receives Federal financial assistance either directly or indirectly from FNS. Examples of local agencies include, but are not limited to, school food authorities, food banks, and county health departments. .

Noncompliance. The finding that any civil rights requirement, as interpreted by regulations; this Instruction; policies; or State agency, local agency, or other sub recipient guidelines; has not been satisfied.

Participants. Individuals who receive assistance, services, or benefits under an FNS program (e.g., persons receiving food stamp benefits, WIC benefits, and/or commodities).

Potentially Eligible Persons. Individuals or households that may be eligible to receive FNS program assistance, benefits, or services, but have not applied.

Program Applicant. Any agency or organization that submits a request or plan as required for FNS or a State agency, as a condition of eligibility for Federal financial assistance.

Program Access: Project designed to decrease barriers to the Food Stamp Program and increase participation among those who are eligible.

Program Compliance Review. An evaluation procedure used to determine if State agencies, local agencies, and other sub recipients are administering and operating FNS programs in accordance with program and civil rights regulations, instructions, policies, and guidance.

Project Area. The county or similar political subdivision designated by a State as the administrative unit for program operations. Upon prior FNS approval a State, city, Indian Reservation, welfare district, or any entity with clearly defined geographic boundaries, or any combination of such entities, may be designated as a project area in accordance with regulations or guidelines for the specific program being administered.

Recommendations: Statement of actions that address observations made in the review. These actions may or may not be required.

Required Corrective Action: Statement of actions that must be taken to correct non-compliance with regulations, and with established policies and procedures. These actions may be prescribed or the State may be required to determine the actions to be taken.

Service Delivery Area. The locale serviced by a service delivery point in the administration of FNS assisted programs, such as a school district or a food stamp project area.

Service Delivery Point. A place in which FNS assisted program services or benefits are administered to the public. Examples of service delivery points are homes for elderly citizens, day care centers, clinic sites, and FSP certification centers.

State Agency or other Recipient. Any State Department (e.g., Health, Social Services, Education, Agriculture) or entity (e.g., Indian Tribal Organization (ITO)) that receives Federal financial assistance directly or indirectly from FNS, and either extends those funds to another State agency, local agency, or other sub recipient for the purpose of carrying out a program, or expends those funds directly in carrying out a program.

Refer to FNS Program appendices for additional clarification on State agencies.

Sub recipient. Any agency, organization, or corporation that receives Federal financial assistance indirectly from FNS. Examples of sub recipients include but are not limited to school food authorities, food banks, and county health departments.

Underserved Group or Community. A group or community whose participation in an FNS program is significantly below the percentage of potentially eligible members of the group or community in the service area.

USDA OCR - The organizational unit reporting to the Office of the Secretary of Agriculture that has authority to develop and administer a comprehensive program to assure equal opportunity and nondiscrimination for all persons in all aspects of USDA programs under applicable CR laws and regulations.

Oahu Review

The WRO's Civil Rights Review of the DHS' Downtown Honolulu and Kaneohe offices focused on the following areas; Civil Rights (CR) Training, Services for Limited English Proficient (LEP) clients, Services and Accessibility for Persons with Disabilities, Public Notification/ Complaint Procedures and Collection of Racial and Ethnic Data.

I. CIVIL RIGHTS TRAINING (FNS 113-1, Section IX)

Civil Rights training for all employees is required so employees and supervisors understand their civil rights obligations and requirements. Persons responsible for ensuring overall CR compliance at the county must receive training to assist them in performing their responsibilities.

Generally, State agencies are responsible for training their "frontline staff." Frontline staff interact with program applicants or participants, and those persons who supervise "frontline staff," must also be provided civil rights training.

Training subject matter must include, but is not limited to: Collection and Use of racial and ethnic data, effective public notification, complaint procedures, resolution of noncompliance, ensuring reasonable accommodation and access for persons with disabilities, and providing language assistance for persons with limited English proficiency.

FINDINGS

Downtown Honolulu and Kaneohe Office Staff

1. The frequency and content of civil rights (CR) training varied widely among employees interviewed. Employees report that they have received some recent CR training and others report that they have never received any CR training. There needs to be a regular and consistent training schedule and content needs to include an understanding of all CR obligations, including services and accommodations available to persons with disabilities.
2. A significant number of staff interviewed did not receive training on how to serve and accommodate persons with disabilities. As a consequence, many indicated that they were not familiar with accommodations for persons with disabilities or how to obtain them.

REQUIRED CORRECTIVE ACTIONS

The State must provide a regular and consistent schedule for CR training as well as include content that provides a complete understanding of civil rights pursuant to FNS Instruction 1-113. Content needs to include disability awareness including the procedure and resources available to accommodate the needs of disabled persons.

FNS is willing to provide technical assistance and feedback on any CR training developed by DHS to comply with these corrective actions. FNS expects DHS to develop a plan of action to address these deficiencies in 30 days.

II. SERVICES FOR LIMITED ENGLISH PROFICIENT (LEP) CLIENTS

7 CFR Part 272.4 (b)

Agencies that fail to provide services to Limited English Proficiency (LEP) clients or applicants or deny them access to federally assisted programs and activities may be discriminating on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964 and its implementing regulations.

Title VI and its regulations require State agencies to take reasonable steps to assure “meaningful” access to the information and services they provide regarding the SNAP. What constitutes reasonable steps to assure meaningful access is determined by a number of factors listed in FNS Instruction 113-1 and the Food Stamp regulations.

FINDINGS

Downtown Honolulu Office and Kaneohe Offices

1. All directional and informational signs on the building and interior are currently written only in English. For example, signage on the location of the offices, restrooms, applications, etc. should be posted in the dominant non-English languages in the office’s service area. Staff indicated that Tagalog, Cantonese, and Chuukese were some of those languages.

Kaneohe Office

2. The language identification tool should be placed on the top of the counters in order to be viewable and accessible to limited English speaking clients.

State-Wide Issue

3. The Discrimination Complaint Form DHS 6000 (rev 06-2009) is in English only. It must be made available in other languages such as Tagalog, Cantonese and Chuukese.
4. The Offer and Acceptance or Waiver of Free Interpreter Services DHS 5000 form should have in box #3 a statement that DHS will not allow someone under the age of 18 to act as an interpreter. This form should be available in languages other than English, such as Tagalog, Cantonese and Chuukese.

REQUIRED CORRECTIVE ACTIONS

1. All directional and informational signs on the building and interior of the Downtown Honolulu and Kaneohe offices should be written in more than just English, such as Tagalog, Cantonese and Chuukese.
2. The language identification tool in the Kaneohe Office should be placed on the top of the counters in order to be viewable and accessible to limited English speaking clients.
3. The Discrimination Complaint Form DHS 6000 (rev 06-2009) must be made available in other languages such as Tagalog, Cantonese and Chuukese.
4. The Offer and Acceptance or Waiver of Free Interpreter Services DHS 5000 form should be amended to have in box #3 a statement that DHS will not allow someone under the age of 18 to act as an interpreter. This form should be available in languages other than English, such as Tagalog, Cantonese and Chuukese.

These corrective actions should be implemented within the next 30 days.

III SERVICES AND ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The Americans with Disabilities Act (28 CFR Part 35, Title II, Subtitle A), prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability as well as the USDA Implementing Regulation, 7 CFR Part 15 b.

In addition, FNS 113-1 Instruction states that the public is to be provided “appropriate information, including Web-based information, in alternative formats for persons with disabilities.” (FNS 113-1, IX, (B) (3))

FINDINGS AND CORRECTIVE ACTIONS ON PHYSICAL ACCESS:

The Downtown Honolulu office currently has only one disabled parking space and a ramp to the front of the building. There is an accessible elevator to the 2nd floor public offices. The following access problems were identified:

1. The push-pull weights of the entrance doors to Pauahi and Iwilei units are in violation of ADA standards. The push-pull weight is in excess of the 5 lbs standard to accommodate persons with disabilities.
2. The doors to the Pauahi and Iwilei units in Downtown Honolulu building need an appropriate attached door stop. The doors are currently being held open by a chair which impedes access for persons with a disability.
3. A nondiscrimination statement that is taped to the Iwilei Unit reception window is located too high to be viewed by clients in a wheel chair. It should be moved down to an accessible level.
4. The Iwilei Unit waiting room is small and has approximately 9 chairs. There needs to be a space reserved for a wheelchair with the appropriate blue international disability symbol to designate the space.
5. The application for benefits and other materials are hanging on a rack by the door to the Pauahi office’s interior. It is not accessible for persons in a wheelchair. The rack must be moved to an accessible area and at an appropriate level for someone in a wheelchair.
6. Information containing the name and contact for the State Civil Rights Coordinator is taped to the 1st of the 2 reception windows at a height not viewable to persons in a wheel chair. This information should be printed in a larger font size and posted in the office where it is accessible to persons in a wheelchair. (Pauahi Unit)
7. The And Justice for All poster is the appropriate 475B poster. However, it is posted at the top of the bulletin board and not accessible for persons in a wheel chair. The poster must be placed so persons in a wheel chair can access the information on the poster. Pauahi Unit
8. It appears that the Downtown Honolulu office has a practice to escort disabled clients to the employee restroom, open its doors, and wait to escort the client back to the office. That practice should be posted and all staff informed and instructed to follow this procedure.
9. All restroom doors (employee and public) have push-pull weight in excess of 15 lbs. and needs to be corrected and limited to no more than 5 lbs.

10. Currently, there is only one accessible parking space at the Downtown Honolulu location. An additional parking space must be added to meet current ADA standards.
11. The current international symbol of accessibility and side access stripes on the Downtown parking lot asphalt is faded and need to be repainted.
12. Restroom faucets must have an ADA approved lever rather than a spoke turn type faucet valve in order to accommodate persons with disabilities.
13. There is no program information available in Braille, large print, or audio and staff did not know what to do if a client asked for program information in those formats.

Kaneohe Office

14. The small lobby needs to have a space reserved for a wheelchair with the blue international disability symbol to designate the space.
15. The current international symbol of accessibility and wheelchair access stripes on the parking lot asphalt are faded and need to be repainted.
16. Bathroom faucet must have a ADA approved lever rather than a spoke turn type faucet valve to accommodate persons with disabilities
17. The raised concrete walkway that runs parallel to the front of the Kaneohe building must have a barrier with a handrail to keep disabled persons from falling off the walkway.
18. The public restroom is not accessible to persons with disabilities. The door is too narrow (29") the sink has a spoke water valve. The safety bars are too high (42") the paper towel dispenser is too high (50"), mirror too high (51"), toilet seat protector holder missing (paper protectors sitting on top of toilet tank). The restroom needs to be made accessible by ADA standards.
19. There is no program information available in Braille, large print, or audio and staff did not know what to do if a client asked for program information in those formats.

In view of the large number of corrective actions on physical access, the DHS will need to develop a plan and timetable within the next 60 days to address these deficiencies.

IV. PUBLIC NOTIFICATION (FNS 113-1, Section IX)

All Food Stamp programs must include a public notification system. The purpose of this system is to inform applicants, participants, and potentially eligible persons of the program availability, program rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a discrimination complaint.

information. For filing a complaint the publication must have the USDA Washington DC contact information. (Note: Hawaii can include the Western Region's contact information but it must at a minimum include the USDA information).

REQUIRED CORRECTIVE ACTIONS

1. The correct And Justice for All poster, form 475B, must be posted in a prominent location in the lobby in all offices at a height accessible for persons in a wheelchair.
2. All offices must maintain a discrimination complaint log.
3. Include the USDA Washington DC contact information in Your Rights and Responsibilities publication DHS 050 and the complaint filing publication DHS 6000.

These corrective actions should be completed within 30 days.

V. COLLECTION OF ETHNIC AND RACIAL DATA AND PROGRAM PARTICIPATION (FNS Instruction 113-1, Section XII)

Local agencies must provide for and maintain a system to collect the racial and ethnic data in accordance with FNS policy. This data will be used to determine how effectively FNS programs are reaching potential eligible persons and beneficiaries, identify areas where additional outreach is needed, assist in the selection of locations for compliance reviews, and complete reports as required. (FNS 113, Section XII)

In addition, agencies are responsible for analyzing current racial or ethnic data to determine if the Food Stamp Program is reaching potentially eligible, low-income households throughout its service areas. (FNS 113, appendix A, (I).

Unexplained discrepancies in participation data that indicate a service area is not in compliance with civil rights requirements must be reviewed or investigated further. Trend analysis must be conducted to determine if significant changes in racial and ethnic participation data warrant further review or investigation. (FNS 113, Appendix A (I)

FINDINGS

Downtown Honolulu and Kaneohe Road Staff

1. Staff are unaware of the need to use visual observation to record race or ethnicity whenever clients fail to record it on the application (FNS 113, Section XII, A (6)

Each state agency must take specific action to inform applicants, participants, and potentially eligible persons of their program rights, and responsibilities and the steps necessary for participation.

Applicants and participants must be advised at the service delivery point of their right to file a complaint, how to file a complaint and the complaint procedures. In addition, all information materials and sources, including, web sites, used by State agencies to inform the public about Food Stamps must contain a nondiscrimination statement.

In addition, FNS 113-1 Section IX, B, 2, requires that local agencies must inform potentially eligible persons, community leaders and grassroots organizations about the Food Stamp Program. This includes information about eligibility, benefits, services, location of local offices and hours of service. This information can be communicated by such methods such as, but not limited to, Internet, newspaper articles, radio and television announcements, letters, leaflets, brochures, computer-based applications, and bulletins. FNS 113-1, IX, (A) (2) and (4), Appendix A, (G) (I) and (2).

FINDINGS

Downtown Honolulu Office

1. Downtown Honolulu Iwilei Unit Lobby posted the incorrect form 475 C And *Justice for All* (ADJ) poster, not the required form 475B poster.
2. The Downtown Honolulu Offices did not keep a record (log) of discrimination complaints.

Kaneohe Office


3. The office has the incorrect *And Justice for All Poser* (form 475A). The poster must be form 475B.
4. The ADJ poster is placed below the counter and not accessible to the public in that location.
5. The two units in the Kaneohe office do not keep a record (log) of discrimination complaints.

State-Wide Issue

6. Two Key Documents: The Access Hawaii, Services to the Public: Your Rights and Responsibilities publication DHS 050, March 2008, AND the State of Hawaii Form DHS 6000, does not have the required USDA contact

REQUIRED CORRECTIVE ACTIONS

1. Whenever a client chooses not to fill in their race or ethnicity, staff is required to utilize visual observation to fill in the information. It is recommended that staff inform client of this procedure to encourage them to self-identify their race or ethnicity. A memo to all staff addressing this issue should be issued in 30 days.

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| | Subject OPPORTUNITY TO PARTICIPATE IN PROGRAMS, SERVICES AND ACTIVITIES | | OPR PERS | |
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INTRODUCTION

The Department of Human Services (DHS) will provide equal opportunity to participate in its programs, services and activities.

This policy has legal authority within the parameters of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans With Disabilities Act of 1990 as amended, as well as the Hawaii Revised Statutes, including and not limited to Chapter 371, Part II, 31 to 37 and Chapter 378, as amended.

State and Federally-funded programs must be planned and administered such that they do not have the effect of denying or delaying services to any particular person or groups of persons seeking services at the DHS.

1.0 PURPOSE

The primary purpose of this policy is to assure that opportunities to participate in DHS services are free from discriminatory practices.

2.0 REFERENCES, ACRONYMS AND DEFINITIONS SEE APPENDIX A

3.0 POLICY

It is the policy of the Department of Human Services to provide all persons with an equal opportunity to participate in, and benefit from all departmental programs, services and activities. Goals will be set and updated as needed.

4.0 SCOPE

This policy applies to all DHS divisions and their branches, sections and units as well as agencies and commissions administratively attached to DHS, individuals, and organizations that receive State and Federal funds through contracts or other arrangements with the DHS.

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5.0 RESPONSIBILITIES

Director Ensure that all programs, services and activities administered by the Department are provided in an environment free of discriminatory practices. The Director may delegate any portion to a deputy director, staff officer and/or division administrator.

Civil Rights Compliance Staff (CRCS) (a) Develops, coordinates, monitors and maintains all departmental programs related to civil rights in accordance with appropriate federal and state laws and regulations, (b) develops and implements policies and procedures relative to providing an opportunity to participate in programs, services and activities, (c) provides technical assistance and staff support to the Director, Deputy Director, Personnel Officer, and supervisory personnel in matters concerning non-discrimination in the provision of services. (d) investigates complaints of discrimination in accordance with section 4.10.1 of this Policy and Procedure Manual, (e) establishes and maintains a volunteer interpreter list and disseminates to division and administratively attached agency or commission. The list shall be updated at least on a semi-annual basis, (f) works in consonance with personnel in staff offices and divisions on matters relating to equal opportunity in the provision of services, (g) negotiates settlements and submits recommendations to the Director for review.

Division Administrators/Executive Directors/Staff Officers (a) Ensures programs are provided in a non-discriminatory manner to all eligible persons, (b) coordinates the Department's compliance programs, services and activities as they relate to their respective organizations, (c) provides direct assistance to the Civil Rights Compliance Staff in civil rights-related matters as deemed necessary, (d) disseminates list of volunteer employee interpreters to their respective organizational units, (e) notifies prospective and actual applicants and clients of their right to interpreter and other services at no cost to them assuring timely and meaningful access.

Program Administrators (includes Division, Branch, Section and Unit Supervisors) Identifies language and access needs of their clientele, and persons in the community likely to be affected by their program. Further, they are responsible for planning and administering the program, service or activity in a manner that does not openly result in, or have the effect of treating a person or a group of persons unfairly.

Supervisors (a) must ensure the consistent application of the Department's non-discrimination policy and method of administration in the provision of programs, services and/or activities to the public, and (b) inform each employee of the procedures to provide meaningful access to all individuals, including LEP persons and people with disabilities.

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Employees (a) Implement and consistently apply the Department's non-discrimination policy and method of administration in the performance of their jobs in a timely manner (b) inform clients and applicants of the availability of language assistance, auxiliary aids and services, (c) arrange for a sign or other language interpreter on behalf of the requesting individual, (d) explain discrimination complaint process, and (e) explain to clients their rights.

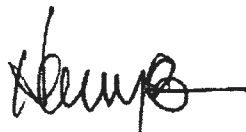
Contractors or Sub-recipients (a) This policy extends beyond those programs, services and activities administered directly by the Department and applies to all contractors, service providers and other sub-recipients that receive Federal and State funds that provide services on behalf of DHS. (b) DHS or its organizational divisions, and administratively attached agencies and commissions will not approve any application for or make any expenditures of Federal or State funds for the establishment, conduct or continuation of any program or activity, until the service provider furnishes an assurance in writing to comply with all of the requirements imposed by, or pursuant to, the applicable Federal and State laws and regulations. (c) Each program will be responsible for securing that written assurance of compliance and for monitoring the service delivery practices of the service provider to ensure compliance with the applicable laws, regulations and this policy.

6.0 IMPLEMENTATION

With the approval of this Policy, by the Director, DHS' Opportunity to Participate in Programs, Services and Activities will be implemented and will remain in effect until such time it is cancelled or superseded by order of the Director.

This part shall superseded any prior directive concerning equal opportunity to participate in programs, services and activities. Authorized modifications of content will not affect the life of these policies and procedures, unless so specified by the Director.

APPROVED: _____


Director

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7.0 PROCEDURES

7.1 Dissemination of Information

- a. Programs shall inform clients, applicants, potential applicants, and related program participants, that the Department's programs, services and activities are provided in a manner that is free of discriminatory practices. Additionally, such individuals shall be informed of their right to file a discrimination complaint with the Department or appropriate enforcement agency.
- b. All such information and assurance of compliance statements, shall be included as a provision in all contracts, grant assignments, licensing agreements, and other similar documents that are used in the administration of programs, services and activities of the Department of Human Services.

7.2 Maintenance of Records and Reports

- a. The Department will maintain such records and submit such reports as may be required by Federal or State agencies to assure compliance with regulations.
- b. The Department will require such program, agency or facility receiving Federal or State financial assistance directly or through contractual, licensing or other arrangements with the Department, to maintain and submit those records and reports deemed necessary to determine compliance.

7.3 Comparable Level of Service

- a. The Department shall take the necessary steps to ensure that resources are available to provide all persons with an equal opportunity to participate in the programs, services and activities administered by the Department. The level of service shall be equally effective as that provided to the general public. Accordingly, each program, service or activity shall be responsible to ensure that:
 1. no person is denied program services or benefits because of the person's inability to communicate in the English language; or due to a disability; and
 2. each unit employee shall arrange for a sign or language interpreter for anyone requiring such accommodation in order to access benefits or services.
- b. To promote a comparable level of service to that provided the general public, programs or activities that have substantial participation of LEP persons or persons with disabilities, shall take the necessary steps to furnish vital program information and notices in the appropriate languages, or in alternate format.

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- c. To ensure that all persons are provided an opportunity to participate in, and benefit from, our programs, services and activities, we must eliminate barriers that may preclude meaningful access for otherwise qualified individuals who might have special needs. In particular persons with disabilities and those with limited English skills might require assistance to access and participate in our programs, services and activities.

For further information on DHS' Access Policy which covers language, facilities and employment to support human services, see Access Policy 4.10.4 (2009).

For protocol on providing access for Persons with Disabilities under ADA, as amended, see Appendix B.

For protocol on providing access for persons with special communication needs, see Appendix C.

For protocol on providing access for Limited English Proficient (LEP) persons, see Appendix D.

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2.0 REFERENCES, ACRONYMS, AND DEFINITIONS

2.1 REFERENCES

Title VI of the Civil Rights Act of 1964, as amended
 Title VIII of the Civil Rights Act of 1968, as amended
 Food Stamp Act
 Rehabilitation Act of 1973, Sections 503 and 504
 Vietnam Era Veterans' Readjustment Assistance Act of 1974, Section 402
 Civil Rights Restoration Act of 1988
 Fair Housing Act of 1968, as amended
 Executive Order 11246, 30 Fed. Reg. 12319, as amended
 Executive Order 13166, 65 Fed. Reg. 50121, as amended
 Americans With Disabilities Act of 1990, (ADA), as amended
 U. S. Department of Health and Human Services, Office for Civil Rights, Policy
 Guidance: Prohibition Against National Origin Discrimination as it Affects
 Persons with Limited English Proficiency
 Hawaii Administrative Rules, Title 11, Chapter 218, Utilization of Sign
 Language/English and Oral Interpreter Services
 Hawaii Revised Statutes, Chapter 489; 368, 1.5
 Hawaii Revised Statutes, Chapter 371, Part II (31-37), and 378, Part I, as amended
 Department of Human Services Administrative Directives Update

2.2 ACRONYMS

| | |
|-------|--|
| ADA | AMERICANS WITH DISABILITIES ACT, AS AMENDED |
| ASL | AMERICAN SIGN LANGUAGE |
| CRCS | CIVIL RIGHTS COMPLIANCE STAFF (DHS PERSONNEL) |
| DAGS | DEPARTMENT OF GENERAL ACCOUNTING SERVICES |
| DCAB | DISABILITY AND COMMUNICATIONS ACCESS BOARD |
| DHS | DEPARTMENT OF HUMAN SERVICES |
| DIR | DIRECTOR, DEPARTMENT OF HUMAN SERVICES |
| DDIR | DEPUTY DIRECTOR, DEPARTMENT OF HUMAN SERVICES |
| LEP | LIMITED ENGLISH PROFICIENCY |
| OCR | OFFICE OF CIVIL RIGHTS |
| OLA | OFFICE OF LANGUAGE ACCESS (STATE OF HAWAII) |
| USHHS | UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES |
| TDD | TELEPHONE DEVICES FOR THE DEAF |
| TDY | TELETYPEWRITERS |
| TT | TEXT TELEPHONES |

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2.3 DEFINITIONS

Auxiliary aids and services: Equipment, materials and services that are used to provide effective communication for people who have visual, hearing, speech or cognitive disabilities

Bilingual/Multilingual: Any individual who has demonstrated proficiency in both spoken English and at least one other language, and who can interpret accurately, impartially, and effectively to and from such language and English using any specialized terminology necessary for effective communication

Department or DHS: the Hawaii Department of Human Services, including its administratively attached agencies and commissions

Director: Director of the Hawaii Department of Human Services

Discrimination: Any action/s or lack of action/s by the DHS, which results in disparate treatment or has an adverse impact on a person or group of persons, on the basis of one or more memberships in protected groups (groups protected by Federal and State laws)

Facility: Any building or space where DHS programs, services, activities, employment or other functions occur

Frequently-Encountered Language: Language spoken by a significant number or percentage of the population eligible to be served, employed by or directly affected by DHS programs, services, activities and functions

Interpreter: A bilingual or multilingual individual who understands interpreter ethics and client confidentiality needs. A person who has rudimentary familiarity with a language other than English shall not be considered an interpreter. Generally, an interpreter is trained in interpretation and has proficient knowledge and skills in English and at least one other language and who uses those skills and training to make possible communication in one language by orally converting what is said to another language while retaining the same meaning.

Interpretation: Interpretation means the oral rendition of a spoken message from one language to another, preserving the intent and meaning of the original message

Limited English Proficient (LEP) Person: Any individual who does not speak English as his or her primary language and who has a limited ability to read, write, speak or understand English in a manner that permits him or her to communicate effectively with DHS and have meaningful access to and an equal opportunity to participate fully in

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services, activities, programs, employment, or other benefits administered by the Department of Human Services

Person with a Disability: An individual who has a physical or mental impairment that substantially limits one or more of the person's major life activities, has a record of such impairment, or is regarded as having such and impairment


Service Provider: Any person, or group of persons, agency, organization, institution, political subdivision, that delivers a program, service or activity with Federal or State financial assistance through contractual, licensing or other arrangements with the Department of Human Services

Sight Translation: Occurs when an interpreter reads written text and orally converts what is written to another language while retaining the same meaning.

Sub-Recipient: Any entity that expends Federal or State assistance received as a pass-through from the DHS to carry out a program in which the sub-recipient provides services to and has contact with applicants and participants in the same manner as DHS if DHS were to administer the program directly, but does not include an individual applicant or participant who is a beneficiary of a program. For example, Medicaid payments to a contractor or provider for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended unless the State requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis (OMB Circular A-133-- Guidance on distinguishing between a sub-recipient and a vendor is provided in .210)

Translate: Translate means to convert written materials from one language into an equivalent written document in another language while maintaining the same coherence and meaning. Translation means an activity comprising the interpretation of the meaning of a document in one language and the production, in another language, of a new, equivalent document.

Vital Documents: include, and are not limited to: applications, consent forms, complaint forms, letters or notices pertaining to eligibility for benefits, letters or notices pertaining to the reduction, denial or termination of services or benefits or that require a response, written tests that test competency for a particular license, job or skill, documents that must be provided by law; and notices regarding the availability of free language assistance services.

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| | Subject: Appendix B OPPORTUNITY TO PARTICIPATE IN PROGRAMS, SERVICES AND ACTIVITIES Protocol for Providing Program and Physical Access for Persons with Physical and Mental Disabilities under the Americans With Disabilities Act, as amended (ADA) | | OPR PERS | |
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In keeping with the ADA, as amended, as well as a policy of the State of Hawaii that “no qualified individual with a disability is excluded from participation in, denied the benefits of, or is otherwise subjected to discrimination by any program, service or activity of the State of Hawaii on the basis of disability,” the Department of Human Services (DHS) will take the following actions:

1. Make reasonable modifications to DHS policies, procedures and practices, to ensure that persons with disabilities are not excluded from participation;
2. Provide auxiliary aids and services to ensure effective communication access for persons with disabilities, taking into consideration the requesting individual's preference; and
3. Ensure our offices that serve the public on a regular basis are accessible. If this is not readily achievable, services shall be programmatically accessible to qualified individuals.

Program

Programs are required to operate in such a manner that, when viewed in their entirety, are readily accessible to persons with disabilities. This means making reasonable modifications to program procedures, practices and processes to ensure that persons with disabilities are afforded an opportunity to participate in programs, services and activities of the Department.

Modifications include, and are not limited to:

1. Making home visits in lieu of office visits;
2. Conducting interviews over the telephone rather than in person; and
3. Providing services in an alternate accessible site without compromising confidentiality.

Physical

DHS will ensure that all programs, services and activities, when viewed in their entirety, be accessible to persons with physical and mental disabilities. This includes ensuring all DHS offices that serve the public are structurally accessible to persons with disabilities, in accordance with administrative directives related to facility access.

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1. State Owned Buildings


Programs shall work with DAGS, Planning Branch, and the Fiscal Management Office to ensure that existing state buildings are upgraded, when necessary, to meet access requirements. If this is not readily achievable, programs shall assure that access is achieved programmatically.

2. Leased Facilities

DHS will lease office space in accordance with Comptroller's Memoranda, Policy Guidance and Procedures for Leasing Office Space to Ensure Program Access for Persons with Disabilities.

DHS will ensure that organizational units in leased facilities are accessible to persons with disabilities. The programs shall work with the DAGS, Leasing Branch, when negotiating a new lease or lease renewal.

Administrators and Unit Supervisors or a designee shall accompany DAGS in a walk-thru of a prospective leased facility. The programs shall utilize the survey tool provided by DAGS when performing site assessments to determine whether or not the facility meets access requirements.

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| | Subject: Appendix C | | OPR PERS | |
| | OPPORTUNITY TO PARTICIPATE IN PROGRAMS, SERVICES AND ACTIVITIES Protocol for Providing Access for Persons with Special Communication Needs | | Issue/Revision Date JUL - 9 2009 | |

The Department of Human Services (DHS) will ensure that persons with communication disabilities have a means of communication that is as effective as that provided to persons without communication disabilities. Programs shall provide an effective means of communication with people who have hearing, visual, speech or cognitive disabilities by providing auxiliary aids and services. Programs shall take into consideration the preferences of the requesting individual when providing an auxiliary aid or service.

Programs shall not provide an auxiliary aid or service if it will fundamentally alter the program or create an undue financial or administrative burden. Under these circumstances, the program shall consult with the Civil Rights Compliance Staff (CRCS) to ensure compliance with the applicable laws, rules, regulations and this protocol.

1. Hearing Impairments—Examples of auxiliary aids and services for people who are hearing impaired include, and are not limited to:

- Qualified interpreters
 - Note takers or computer assisted note takers
 - Written material
 - Real-time transcription or video text displays
 - Amplified and hearing aid compatible telephones
 - Assistive listening devices
 - Open and closed captioning
 - Caption decoders
 - TTYs (teletypewriters), TDDs (telephone devices for the deaf) or TTs (text telephones)
- (a) Obtaining Qualified Sign Language Interpreters--DHS staff will obtain a qualified sign language interpreter in accordance with Hawaii Administrative Rules Title 11, Chapter 218.
 - (b) Interpreters will be nationally-certified or hold a local certification awarded by a local screening agency. Appropriate certification level of the interpreter will depend on the nature of the meeting or appointment.
 - (c) When it is determined that a sign language interpreter is necessary for effective communication, the requesting employee will contact an interpreter referral service agency with the following information:
 - (1) requesting employee's full name and phone number, (2) location and purpose of meeting, (3) date of appointment, (4) start and stop time, (5) interpreter preference of hearing impaired individual, and

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(6) onsite contact person and telephone number (if different from requesting employee).

2. Visual Impairments

Examples of auxiliary aids and services for people who have visual disabilities include, and are not limited to:

- Printed information on audio cassette or computer disk, in Braille, or large print, or read by skilled readers:
- Verbal description of action and visual information to enhance the accessibility of performances and presentations; and
- A staff member serving as a guide to enable a person who has limited vision to locate items or to find his or her way along an unfamiliar route.

3. Cognitive Impairments

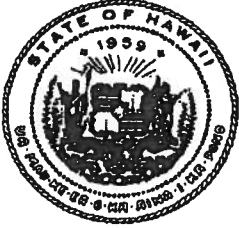
Examples of auxiliary aids and services for persons with cognitive impairments, include and are not limited to:

- Readers
- Communication assistants
- Rewording of information to use clear and concise language
- Pictograms
- Graphic presentation of information

4. Speech Impairments

Examples of auxiliary aids or services to persons with speech impairments include, and are not limited to:

- Written material
- More active and acute listening on part of listener
- Communication assistants who are familiar with person's speech
- Computer, Typewriter, TTYs or TDDs

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| | Subject: Appendix D | | OPR PERS | |
| | OPPORTUNITY TO PARTICIPATE IN PROGRAMS, SERVICES AND ACTIVITIES Protocol for Providing Access for Limited English Proficient (LEP) Persons | | Issue/Revision Date JUL - 9 2009 | |

The Department of Human Services (DHS) will ensure that Limited English Proficient (LEP) persons will not be excluded from participation in, denied the benefits of, or subjected to discriminatory practices in the provisions of its programs and services because of their inability to communicate in English. The Department, its Divisions, Administratively Attached Agencies and Commissions will take the following steps to assure that all eligible persons with limited English Proficiency have meaningful access to the services we provide.

- Ensure that LEP persons are informed of their right to be provided with interpreter and/or translation services free of charge to them. Please do not encourage or request that such individuals bring a friend or relative to interpret for them.
- Translate vital documents such as applications, consent forms and notices regarding denial or changes in benefits into other languages based on guidelines from program funding agencies and State laws. (Also see presentation on Best Practices in Written Translations at <http://www.hawaii.gov/dhs> in the Civil Rights Corner)
- Use Four-Factor Analysis defined in DHS' LEP Plan/Consult with Program Office Administrators to consider individual requests for translations to determine when to translate written materials. The four factors include: number of language encounters, frequency of language encounters, nature of the document, importance of the service/document and cost to translate the document. Please note that cost is only one of the four factors to be considered in determining when documents must be translated.
- Contact existing agencies, Tele-Interpreter, internal list of volunteer interpreters (who may be utilized in person or by phone); contact interpreters off the list of Court Interpreters, known qualified individuals and organizations, profit and/or non-profit, such as educational institutions, Pacific Gateway, religious organizations, community entities, when interpreter and/or translation services are needed. Utilize qualified multilingual staff who have volunteered to serve as interpreters and/or translators.
- Utilize technology effectively to promote communication and understanding about programs, processes, and rights.

To the extent possible, DHS employees and contractors should adhere to the following guidelines when requesting oral interpretation services:

1. Explore all effective and timely options;
2. Seek volunteers who are familiar with your program;

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3. Consider the feasibility of having the volunteer perform interpretation electronically and/or through video conferencing or by phone, as appropriate;
4. When your interpreter needs require face-to-face contact, seek volunteer employees located at the same worksite or general geographical area;
5. While the Office of Language Access (OLA) provides monitoring and interpreter training services, they are not responsible for providing interpreters and DHS employees should not refer clients to OLA in search of an interpreter. DHS and its contractors and sub-recipients must provide an interpreter free of charge to the LEP individual in provision of services, programs and activities.
6. Refer to guidelines concerning "How to work with an Interpreter," located at <http://www.hawaii.gov/dhs> in the Civil Rights Corner.

Oral Interpreter Requests


1. When a request for an oral language interpreter is made, the DHS employee shall determine whether bilingual staff in the office, or a nearby office, or other DHS office is available who speaks the language being requested.
2. DHS employees shall contact a court interpreter, Tele-interpreter or other interpreter services, such as Pacific Gateway, to provide interpreter services for DHS when volunteer interpreters are not available.
3. The DHS employee shall contact one or more of the above before the scheduled appointment with the requesting LEP person providing the following information: (a) requesting employee's full name and telephone number, (b) department, section, unit and address, (c) language needed, (d) client's full name, (e) date and time of appointment, and (f) purchase order or pCard number.
4. The DHS employee may ask the interpreter to call the LEP individual to inform him/her of the scheduled appointment.
5. Upon completion of the appointment, an encounter form is completed and signed by the DHS employee and the interpreter. Information on the form (DHS D-40) includes the end time of the appointment, the nature of the encounter, and the interpreter's full name and signature.

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6. The DHS employee may cancel the request for interpreter, however, if the interpreter is not contacted within 24 hours of the appointment time, DHS will likely be charged a minimum of one hour even though no services are provided.
7. The DHS requesting employee shall determine first whether interpreting may be performed via telephone to minimize the time the volunteer spends interpreting and away from his/her regular duties.
8. Telephone interpreter services are available for brief encounters (one-half hour, or less) as are video phones and voice recognition packages. Programs shall have processes for utilizing such services based on contracts, needs and resources.
9. Interpreters should be familiar with the program for which interpretation is needed, be given a copy of the Interpreter Code of Ethics, and sign a self-attestation form concerning their interpreter abilities. Copies are available at <http://www.hawaii.gov/dhs> in the Civil Rights Corner.

Written Translation Requests

Division Administrators, Executive Directors and Staff Officers shall assess the language needs of their respective program/project areas to determine what documents will be translated and into what languages in order to ensure meaningful access to people eligible to be served or likely to be affected by the program/project. This determination shall be based on guidelines set forth by the Hawaii Department of Labor, Office of Language Access, and the U. S. Department of Health and Human Services, Office for Civil Rights, Policy Guidance: Title VI Prohibition Against National Origin Discrimination as it Affects Persons with Limited English Proficiency.

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| | Subject Access Policy Language, Facilities and Employment Access to Support Human Services | | OPR PERS | |
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INTRODUCTION

The Department of Human Services (DHS) will strive to provide meaningful access to its programs, services, activities, facilities, and employment.

This policy has legal authority pursuant to Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Titles I and II of the Americans With Disabilities Act of 1990, among others, as well as the Hawaii Revised Statutes, including and not limited to Chapters 371 and 378 as amended.

State and Federally-funded programs must be planned and administered such that they do not have the effect of denying or delaying services, facilities access, or employment, to any particular person or groups of persons.

1.0 PURPOSE/S

The primary purpose of this policy is to reduce barriers and improve availability of and access to human services at the DHS by providing and maintaining reasonable and meaningful language, facilities and employment access to support human services.

2.0 REFERENCES, ACRONYMS AND DEFINITIONS SEE APPENDIX A

3.0 POLICY

It is the policy of the Department of Human Services (DHS) that all individuals shall be provided equal access to programs, services, activities, facilities and employment in all DHS functions. The goal of this policy is to remove and prevent any barriers to equal access.

4.0 SCOPE

This policy applies to all DHS organizational divisions and their units, agencies, commissions, individuals, and organizations that receive State and/or Federal funds through contracts or other arrangements with the DHS.

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5.0 RESPONSIBILITIES

Administrative Appeals Office is responsible for developing, implementing and evaluating Fair Hearing procedures and processes in provision of DHS services.

Civil Rights Compliance Staff/Personnel Office is responsible for developing and coordinating DHS' Language Access, Self-Evaluation, and Affirmative Action Compliance Plans. Also serves as liaison between Federal and State agencies and other stakeholders, such as advocacy groups and/or potential applicants; provides technical assistance to divisions, administratively attached agencies, and commissions; responds to inquiries from the Equal Employment Opportunity Commission, Hawaii Civil Rights Commission, U. S. Department of Housing and Urban Development and others, as well as performing other duties relative to Civil Rights compliance in programs, services, activities, facilities and employment, such as reporting, training and development. The Civil Rights Staff shares responsibility with divisions, agencies and commissions for DHS policies and procedures, compliance reporting, training, and the development of tools, notices/documents, processes and training modules relating to civil rights compliance. This office may share with divisions the responsibility for developing private/public partnerships to facilitate access.

Director The DHS Director is responsible for leading and monitoring the implementation and prevention of barriers to language, facilities and employment access at the Department of Human Services. The Director may delegate any portion to a deputy director, staff officers and/or division administrators.

Employees All DHS employees are responsible for complying with Federal and State laws, relating to civil rights, including and not limited to treating all individuals equally and courteously, informing persons of their right to equal access to programs, facilities and employment as well as their right to free interpreter service, reasonable accommodation as justified, and a right to file a discrimination complaint when they feel their civil rights have been violated and/or an internal complaint when they feel they have been treated unfairly. Employees are responsible for notifying clients of their right to a fair hearing when there has been an adverse action such as a denial of benefits.

DHS Organizational Division and Unit Administrators and Officers are responsible for determining the needs of the population they serve, considering language, culture, and physical accessibility to facilities and employment that are consistent with those needs in compliance with Federal and State Laws. Other responsibilities include, but are not limited to: (1) distributing to appropriate staff members policies and procedures regarding access, a desk guide, required notices, and a list of available language and other assistance services, (2) consulting with the Civil Rights Compliance Staff on the development and implementation of staff training, (3) collecting and analyzing internal and external data, and (4) notifying and monitoring sub-recipients of compliance with Federal and State Laws and assurances (5) performing other duties as identified in DHS policies and procedures,

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including seeking external funding and partnerships as needed and appropriate in coordination with the Civil Rights Compliance Staff.

Sub-Recipients are responsible for complying with civil rights, and other Federal and State laws and assurances, including and not limited to, informing clients and potential clients of their right to free interpreter service, reasonable accommodation as justified, and a right to file a discrimination complaint when they feel their civil rights have been violated or an interpreter has not been provided.

Contractors and sub-contractors are responsible for providing reasonable, meaningful access to their services and for posting required notices.

Supervisors are responsible for ensuring that their staff are aware of their responsibility to treat all clients and applicants equally and fairly, and to provide assistance to persons with special needs. Supervisors shall also ensure that clients, applicants, recipients, and employees are informed of their right to nondiscriminatory services and employment, reasonable accommodations as justified, and right to file a discrimination complaint and/or request a fair hearing. Supervisors are responsible for assuring that their staff are adequately trained, and for monitoring, posting, and updating of required notices.

6.0 IMPLEMENTATION

With the approval of this Access Policy by the Director, DHS' policy shall be implemented and will remain in effect until such time it is cancelled or superseded by order of the Director.

APPROVED: 
Lillian B. Koller, Director

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7.0 PROCEDURES

7.1 LANGUAGE ACCESS

The Department of Human Services (DHS) recognizes that Limited English Proficient (LEP) individuals need language assistance services to access and fully participate in programs and services as well as employment and other activities. DHS is, therefore, committed to providing competent language assistance at no cost and in a timely manner to LEP individuals. This includes ensuring effective communication between DHS staff members and/or sub-recipients and LEP individuals. Procedures and processes will be developed by the Department. Divisions, sections, units and administratively attached agencies, commissions, and sub-recipients will assist the Civil Rights Compliance Staff by taking the following steps:

- (1) Assessing and determining linguistic needs of population served
- (2) Providing timely and competent language assistance
 - a. Providing language assistance Resources, such as "I Speak" cards
 - b. Determining language need of each LEP Individual
 - c. Notifying LEP individuals of availability of free language assistance
 - d. Requesting an American Sign Language (ASL) interpreter
 - e. Requesting oral language interpreters
 - f. Translating written documents as required by law or DHS contract
- (3) Distributing and complying with interpreter standards set by funding agencies
- (4) Using family, friends, and other volunteer interpreters when qualified and appropriate only

The Department has taken or will take the following steps:

- (1) Develop a reporting system designed to obtain key information about the LEP population who use DHS services or have the potential for doing so
- (2) Compile comprehensive listing of bilingual/multilingual DHS employees
- (3) Send notices of available interpretation/translation services to LEP individuals
- (4) Provide interpretation/translation services for qualified LEP individuals
- (5) Designate a LEP Coordinator, Access Task Force to include representatives from divisions, administratively attached agencies and commissions
- (6) Designate a representative from the Attorney General's office as needed
- (7) Train DHS staff in Language Access
- (8) Seek stakeholders' input in review and revision of its LEP Plan

Procedures and processes are delineated in DHS' LEP Plan, and include input from DHS' Access Task Force which is composed of a representative from all divisions, and administratively attached agencies or commissions, and the LEP Coordinator.

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7.2 FACILITIES ACCESS

Non-discrimination

No qualified individual with a disability is excluded from participation, denied the benefit of, or is otherwise subjected to discrimination by any program, service or activity (including and not limited to employment services) of the DHS on the basis of a disability.

Self-Evaluation

State and local governments are required to conduct self-evaluations of services, policies and practices in accordance with Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. Section 12101. The purpose of self-evaluation is to determine whether DHS services, policies and practices are in compliance with Title II.

DHS' Self-Evaluation Plan (2008-2009) delineates procedures and processes for facilities assessment, including some program access options involving people with disabilities, making reasonable program modifications, and contracting with external organizations, as well as communication access, including Telecommunication Devices for the Deaf (TDD), Communications and Emergency Warning Systems as related to provisions for persons with disabilities.

7.3 EMPLOYMENT ACCESS

Practice

The DHS provides equal opportunity in all terms and conditions of employment and services. The intent of this policy is to prevent discrimination and promote full realization of employment.

Scope

This employment access policy applies to, and must be an integral part of, every aspect of human resource practice in the employment, development, advancement, and treatment of employees and applicants for employment at DHS.

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Procedures

Related procedures and processes are delineated in DHS' Affirmative Action Compliance Plan (2008-2010) and include, but are not limited to:

- (1) Administrative Guidelines
- (2) Resolution of Discrimination Complaints
- (3) Internal Auditing and Reporting System
- (4) Development and Execution of Program

Appendices to the Affirmative Action Compliance Plan include, but are not limited to, procedures for:

- (1) Self-identification
 - a. Qualified Individuals with Disabilities and Qualified Protected Veterans
 - b. Individuals with Limited English Proficiency
- (2) Job Qualification Standards (Physical and Mental)
- (3) Reasonable Accommodation (Physical and Mental)
- (4) Vendor Relations
- (5) Posting of Notices
- (6) Discrimination Complaints including Consent/Release of Information and Complaint Withdrawal

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2.0 REFERENCES, ACRONYMS, AND DEFINITIONS

2.1 REFERENCES

Title VI and VII of the Civil Rights Act of 1964, as amended
 Title VIII of the Civil Rights Act of 1968, as amended
 Equal Pay Act of 1963
 Age Discrimination in Employment Act of 1967 and 1975 (Services)
 Title IX of the Education Amendment of 1972
 Rehabilitation Act of 1973, Sections 503 and 504
 Vietnam Era Veterans' Readjustment Assistance Act of 1974, Section 402
 Civil Rights Restoration Act of 1988
 Fair Housing Act of 1968, as amended
 Executive Order 11246, 30 Fed. Reg. 12319, as amended
 Executive Order 13166, 65 Fed. Reg. 50121, as amended
 Americans With Disabilities Act of 1990, (ADA), as amended
 Hawaii Revised Statutes, Chapter 371, Part II, and 378, Part I, as amended
 Department of Human Services Administrative Directives Update

2.2 ACRONYMS

| | |
|-------|---|
| AACP | AFFIRMATIVE ACTION COMPLIANCE PLAN |
| ADA | AMERICANS WITH DISABILITIES ACT, AS AMENDED |
| ASL | AMERICAN SIGN LANGUAGE |
| DCAB | DISABILITY AND COMMUNICATIONS ACCESS BOARD |
| DHS | DEPARTMENT OF HUMAN SERVICES |
| DIR | DIRECTOR, DEPARTMENT OF HUMAN SERVICES |
| DDIR | DEPUTY DIRECTOR, DEPARTMENT OF HUMAN SERVICES |
| LEP | LIMITED ENGLISH PROFICIENCY |
| OCR | OFFICE OF CIVIL RIGHTS |
| OLA | OFFICE OF LANGUAGE ACCESS (STATE OF HAWAII) |
| PCP | PUBLIC CONTACT POSITIONS |
| USHHS | UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES |
| SEP | SELF EVALUATION PLAN |
| TDD | TELECOMMUNICATION DEVICES FOR THE DEAF |

| | | | |
|-----------------------------------|---|---|-----------------------|
| DHS P&PM | Subject: Appendix A Access Policy Language, Facilities and Employment Access to Support Human Services References, Acronyms, and Definitions | Number 4.10.4 | Page 2 of 5 |
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2.3 DEFINITIONS

Access: Reasonable, meaningful access to employment and services at DHS

Affirmative Action Compliance: A voluntary plan and effort to prevent under-representation of protected groups (groups protected by Federal and State laws) and, to provide reasonable, meaningful access in the Department of Human Services workforce and services

Auxiliary aids and services: Equipment, materials and services that are used to provide effective communication for people who have visual, hearing, speech or cognitive disabilities

Bilingual/Multilingual: Any individual who has demonstrated proficiency in both spoken English and at least one other language, and who can interpret accurately, impartially, and effectively to and from such language and English using any specialized terminology necessary for effective communication

Complaint: An informal or formal (written) claim of discrimination which indicates that a person or group of persons were treated differently, or adversely impacted by action/s of the DHS, based on one or more memberships in protected groups (protected by Federal and State laws)

Complainant: Any person who alleges discrimination in employment and/or provision of DHS services and/or benefits

Department or DHS: the Hawaii Department of Human Services, including its administratively attached agencies and commissions

Director: Director of the Hawaii Department of Human Services

Discrimination: Any action/s or lack of action/s by the DHS, which results in disparate treatment or has an adverse impact on a person or group of persons, on the basis of one or more memberships in protected groups (groups protected by Federal and State laws)

External Enforcement Agencies: Government agencies that enforce statutes prohibiting discrimination, and which are responsible for receiving, investigating and adjudicating discrimination complaints. Federal external enforcement agencies include, but are not limited to, the U.S. Equal Employment Opportunity Commission, U. S. Department of Justice, U. S. Department of Labor, U. S. Office of Federal Contract Compliance Programs, U.S. Department of Health and Human Services, U. S. Department of Housing

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|-----------------------------------|---|---|-----------------------|
| DHS P&PM | Subject: Appendix A Access Policy Language, Facilities and Employment Access to Support Human Services References, Acronyms, and Definitions | Number 4.10.4 | Page 3 of 5 |
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and Urban Development, U. S. Department of Education, U.S. Department of Agriculture, Social Security Administration. State external enforcement agencies or commissions include the Hawaii Civil Rights Commission and the Department of Labor and Industrial Relations, Office of Language Access (OLA).

Facility: Any building or space where DHS programs, services, activities, employment or other functions occur

Factors Protected by Law: Characteristics of a person or group of persons, which are protected under civil rights and other laws. For employment, these factors include race, color, national origin, sex, religion, age, disability, arrest and court records, sexual orientation, marital status, veteran status and assignment of income for the purpose of child support obligations for services these factors include race, color national origin, age, sex, religion, disability status and political beliefs.

Frequently-Encountered Language: Language spoken by a significant number or percentage of the population eligible to be served, employed by or directly affected by DHS programs, services, activities and functions

Interpreter: A bilingual or multilingual individual who understands interpreter ethics and client confidentiality needs. A person who has rudimentary familiarity with a language other than English shall not be considered an interpreter. Generally, an interpreter is trained in interpretation and has proficient knowledge and skills in English and at least one other language and who uses those skills and training to make possible communication in one language by orally converting what is said to another language while retaining the same meaning.

Interpretation: Interpretation means the oral rendition of a spoken message from one language to another, preserving the intent and meaning of the original message

LEP Plan: DHS' state-approved language access plan required by Hawaii Revised Statutes 371-34. as amended.

Limited English Proficient (LEP) Person: Any individual who does not speak English as his or her primary language and who has a limited ability to read, write, speak or understand English in a manner that permits him or her to communicate effectively with DHS and have meaningful access to and an equal opportunity to participate fully in services, activities, programs, employment, or other benefits administered by the Department of Human Services

Organizational Units: All administratively attached agencies and commissions, staff offices and divisional segments that comprise the Department of Human Services

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| DHS P&PM | Subject: Appendix A Access Policy Language, Facilities and Employment Access to Support Human Services References, Acronyms, and Definitions | Number 4.10.4 | Page 4 of 5 |
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Participant: Any person who has applied for and is receiving benefits

Protected Group: An individual identified in a group that is protected by Federal and State Laws, as amended.

Person with a Disability: An individual who has a physical or mental impairment that substantially limits one or more of the person's major life activities, has a record of such impairment, or is regarded as having such and impairment

Primary Language: the language that an LEP individual identifies as the language that he or she uses to communicate effectively, and is the language which the individual has indicated the individual would prefer to use to communicate with the Department of Human Services

Public Contact Positions: DHS positions that require public contact daily or weekly.

Respondent/s: Any person or group of persons alleged to be responsible for discrimination

Self-Evaluation: A voluntary plan and effort to assess programs, services, activities, facilities and employment access at the Department of Human Services.

Service Applicant/Recipient: Any person applying for, having the potential for applying, or receiving program benefits or services provided by the Department of Human Services

Service Provider: Any person, or group of persons, agency, organization, institution, political subdivision, that delivers a program, service or activity with Federal or State financial assistance through contractual, licensing or other arrangements with the Department of Human Services

Sight Translation: Occurs when an interpreter reads written text and orally converts what is written to another language while retaining the same meaning.

Sub-Recipient: Any entity that expends Federal or State assistance received as a pass-through from the DHS to carry out a program in which the sub-recipient provides services to and has contact with applicants and participants in the same manner as DHS if DHS were to administer the program directly, but does not include an individual applicant or participant who is a beneficiary of a program. For example, Medicaid payments to a contractor or provider for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended unless the State requires the funds to be treated as Federal awards expended because

| | | | |
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| DHS P&PM | Subject: Appendix A Access Policy Language, Facilities and Employment Access to Support Human Services References, Acronyms, and Definitions | Number 4.10.4 | Page 5 of 5 |
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reimbursement is on a cost-reimbursement basis (OMB Circular A-133-- Guidance on distinguishing between a sub-recipient and a vendor is provided in .210)

Translate: Translate means to convert written materials from one language into an equivalent written document in another language while maintaining the same coherence and meaning. Translation means an activity comprising the interpretation of the meaning of a document in one language and the production, in another language, of a new, equivalent document.

Vital Documents: include, and are not limited to: applications, consent forms, complaint forms, letters or notices pertaining to eligibility for benefits, letters or notices pertaining to the reduction, denial or termination of services or benefits or that require a response, written tests that test competency for a particular license, job or skill, documents that must be provided by law; and notices regarding the availability of free language assistance services.

INTERNAL COMMUNICATION FORM

Suspense

DEPARTMENT OF HUMAN SERVICES

Subject: DIRECTOR'S MEMORANDUM #09-01
EQUAL OPPORTUNITY TO PARTICIPATE IN
PROGRAMS AND SERVICES

Originator:

To: SOs, DAs, BAs, SAs, USs

From: DIR

Date: 1/5/09

Memo No. 1

The Department of Human Services (DHS) is committed to assuring that program benefits and services are made available to all persons and provided to all eligible individuals without regard to race, color, national origin, political beliefs, ancestry, age, sex, religion, disability, marital status, arrest and court records, sexual orientation, breastfeeding, citizenship status, assignment of child support and/or national guard absence. This commitment is consistent with Federal and State statutes and regulations that prohibit discrimination in the provision of services by recipients of federal and state funds.

To ensure that all persons are provided with an equal opportunity to participate in, and benefit from our programs, services and activities, we must eliminate barriers that may preclude meaningful access for otherwise qualified individuals who may have special needs. In particular, persons with disabilities and those with limited English skills may require assistance to access and participate in our programs, services and activities in and outside our facilities.

Providing Equal Access for Persons with Disabilities

Federal and State laws such as the Americans with Disabilities Act of 1990, as Amended in 2008 (see attached summary of changes which became effective January 1, 2009), the Rehabilitation Act of 1973 and the Hawaii Revised Statutes §368-1.5, prohibit discrimination against individuals with disabilities. Specifically, it is the policy of the State of Hawaii that, "no qualified individual with a disability is excluded from participation in, denied the benefits of, or is otherwise subjected to discrimination by any program, service or activity of the State of Hawaii on the basis of disability." In keeping with this policy (4.10.3), and to meet our obligation under the law, the DHS will:

- Make reasonable modifications to our policies, procedures and practices, to ensure that persons with disabilities are not excluded from participation;
- Provide auxiliary aids and services to ensure effective communication access for persons with disabilities, taking into consideration the requesting individual's preference; and
- Ensure our offices that serve the public on a regular basis are physically accessible. If this is not readily achievable, services shall be programmatically accessible to qualified individuals.

Subject: EQUAL OPPORTUNITY TO PARTICIPATE IN PROGRAMS AND SERVICES

Originator:

To: SOs, DAs, BAs, SAs, USs

From: DIR

Date: 1/5/09

Memo No. 1

Providing Equal Access for Limited-English Proficient (LEP) Persons

Title VI of the Civil Rights Act of 1964 states, "no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The exclusion of LEP persons from our programs because of their inability to communicate in English, could be considered a form of national origin discrimination. In order to comply with Title VI, as well as Hawaii Revised Statutes, Chapter 371, Part II, and to benefit from the opportunities to serve LEP persons as well as ensure that they are free from discriminatory practices, we must take the following steps to assure that all eligible persons with LEP have meaningful access to the benefits, services, and activities we provide.

- Ensure that LEP persons are informed of their right to be provided with interpreter and/or translation services free of charge. Please do not encourage or request that such individuals bring a friend or relative to interpret for them. For example, a friend or family member may not understand the often technical terminology and might not interpret or translate accurately. Also, LEP persons may be reluctant to divulge confidential information in front of such persons or, because they are not properly trained, the interpreters might not observe confidentiality.
- Translate vital documents such as applications, consent forms and notices regarding denial or changes in benefits into other languages based on guidelines from program funding agencies and State laws.
- Use the Four-Factor Analysis to determine when to translate written materials (number, frequency, nature/importance and cost). Please note that cost is only one of the four factors to be considered in determining when documents must be translated.
- Contact qualified individuals and organizations, profit and/or non-profit, such as educational institutions, religious organizations, community entities, when interpreter and/or translation services are needed. Utilize qualified multi-lingual staff as well as qualified employees who have volunteered to serve as interpreters and/or translators. A volunteer interpreter list is generated by the Personnel Office, Civil Rights Compliance Staff. (For a current list, see ICF dated 01/02/09.)
- Utilize technology effectively to promote communication and understanding about programs, processes and rights.

Subject: EQUAL OPPORTUNITY TO PARTICIPATE IN PROGRAMS AND SERVICES

Originator:

To: SOs, DAs, BAs, SAs, USs

From: DIR

Date: 1/5/09

Memo No. 1

All employees must be aware of these requirements and shall conduct themselves appropriately when servicing applicants/participants. Discrimination will not be tolerated by the DHS. We have an opportunity and obligation to provide services through processes that are free of discriminatory practices. Employees who engage in discriminatory conduct shall be subject to disciplinary action in accordance with the applicable personnel rules and regulations and/or bargaining unit agreement.

This memorandum should be disseminated to all employees and filed in the Director's Memorandum section of the DHS Policies and Procedures Manual (Reference 4.10.3).

This memorandum replaces Director's Memorandum #08-01.



DIR

Attachment: Summary of Key Changes Americans with Disabilities Act (ADA) as amended 2008

c: DIR's Ofc, OYS, CSW, HPHA

Summary of Key Changes
Americans with Disabilities Act (ADA), as amended, 2008

| <u>Provision</u> | <u>Original</u> | <u>Addition effective January 1, 2009</u> |
|--|--|--|
| Substantially Limits 42 USCA §12101(4)(B) | Term disability means a physical or mental impairment that substantially limits one or more major life activity. | "substantially limits" to be interpreted consistently with findings and purposes of of ADA Amendments of 2008 |
| Major Life Activities 12102(2)(A) | None | Major life activities include, and are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. |
| Major Bodily Functions 12102(2)(B) | None | Major life activity also includes the operation of a major bodily function, including and not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive. |
| Episodic or in Remission 12102(4)(D) | None | Impairments that are episodic or in remission are to be considered disabilities if they would substantially limit an individual in a major life activity when active. |
| Mitigating Measures 12102 (3) | None | Determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodation or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. |
| Regarded as 12102 (3) | Term "disability" includes being regarded as having an impairment that substantially limits one or more major life activities. | An individual meets the requirement of being regarded as having a disability because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. An individual cannot be regarded as having a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. Individuals only regarded as disabled are not entitled to reasonable accommodations. |

**Fundamental
Alteration**
12201 (f)

Discrimination includes a failure to make reasonable modifications in policies, practices or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges advantages or accommodations. 302(b)(2)(A)(II)

Reasonable modifications in policies, practices or procedures shall be required, unless an entity can demonstrate that making such modifications in policies, practices or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations involved.

For more information: 586-4955 or gwatts@dhs.hawaii.gov

Citation: 42 USCA §12102, a _____

DISCRIMINATION COMPLAINT FORM**XXX-XX-**

NAME: _____ SSN (last four digits) _____ PHONE (Home) _____ PHONE (Work / Cell) _____

ADDRESS: _____ CITY _____ STATE _____ ZIP CODE _____

EMPLOYER(Division/Unit) if applicable _____

1. JOB TITLE _____

2. BASIS OF ALLEGED DISCRIMINATION (Choose appropriate item/s.)

| | | |
|---|---|---|
| <input type="checkbox"/> Race/color | <input type="checkbox"/> National Origin/Ancestry | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Sex/Gender | <input type="checkbox"/> Breast-Feeding | <input type="checkbox"/> Marital Status |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Arrest/Court Records | <input type="checkbox"/> Age |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Child Support Assignment | <input type="checkbox"/> Citizenship |
| <input type="checkbox"/> National Guard Absence | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Political Belief |

3. Explain briefly what, if anything, you have done about the alleged discrimination.

4. Does your complaint concern alleged discrimination in services delivery? ☐ Yes ☐ No5. Does your complaint concern alleged discrimination in employment? ☐ Yes ☐ No6. Is the alleged discrimination against you? ☐ No ☐ Yes, By Whom? _____7. Please explain how and why you believe you were discriminated against. Please be SPECIFIC.
Please include names, dates, witnesses and places of the incident/s.

(Attach additional sheet if you required more space.)

8. Is the alleged discrimination against others? ☐ No ☐ Yes, please list: Name(s), Address(es) and
Phone Number(s).

9. What is the specific date or period of time of the alleged discrimination?

10. Please indicate the relief/remedy you are seeking. _____

11. I will notify Department of Human Services (DHS), Personnel, Civil Rights Compliance Service (CRCS),
PO Box 339, Honolulu HI 96809-0339, if I change my address or telephone number. I swear or affirm
that I have read the above statements and that they are true to the best of my knowledge and belief.

PLEASE COMPLETE, REVIEW, SIGN, DATE AND RETURN TO THE ABOVE ADDRESS.

Signature _____ Date _____

The purpose of this form is to assist you in filing a complaint with the Department of Human Services.
You are not required to use this form, a letter with the same information is sufficient.
**HOWEVER, THE INFORMATION REQUESTED ABOVE
MUST BE PROVIDED, WHETHER OR NOT THE FORM IS USED.**

(PLEASE READ THE ATTACHED NOTICE ON DISCRIMINATION COMPLAINTS
AND NON-RETALIATION REQUIREMENT.)

NOTICE TO INDIVIDUALS FILING DISCRIMINATION COMPLAINTS

Individuals alleging discriminatory treatment in services and/or employment have a right to file a complaint using the Department of Human Services (DHS) DISCRIMINATION COMPLAINT FORM, DHS 6000 (Rev 06-2009). A letter with the same information requested on the form can be used if necessary. The complaint should be sent to:

STATE OF HAWAII
Department of Human Services
Personnel/CRCs
P.O. Box 339
Honolulu, Hawaii 96809-0339

Tel: (808)586-4955 TTY: (808)586-4959
gwatts@dhs.hawaii.gov

Individuals also have a right to seek redress for their complaint through the appropriate:

1. Collective Bargaining Unit
2. State and Federal Compliance Agencies, and/or
3. Civil Court action.

Confidentiality: All information shall be held with strictest confidentiality, and release of information shall be allowed only when necessary to resolve the issue/s in the complaint. A complainant consent release form (DHS 6006) will be required to complete an investigation.

Non-retaliation: Section 704(a) of the Civil Rights Act of 1964, as amended states:

It shall be an unlawful employment practice for an employer to discriminate against any of his/her employees or applicant/s for employment (or services) because he/she has opposed any practice by this title, or because he/she has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

Additionally, laws enforced prohibit recipients of Federal financial assistance from intimidating or retaliating against anyone because he or she has either taken action or participated in action to secure rights protected by these laws. Individuals seeking services and/or employment with the Department of Human Services are advised of this non-retaliation requirement and are instructed to notify the Department's Personnel Office/CRCs, P.O. Box 339, Honolulu, Hawaii 96809-0339, if any attempt at retaliation is made as a result of filing a complaint.

Rights and Responsibilities: (The following list highlights some rights and responsibilities and is NOT all inclusive.)

1. You have the right to have an attorney represent you, at your own expense, or to have any other personal representative of your choice at any level of a grievance. Such representative shall not be a departmental or State EO representative or Personnel Specialist.
2. You have the right to discontinue your complaint at any time by submitting a written statement of withdrawal. (DHS 6007)
3. You have the right to be notified of each of the steps taken in the complaint procedure, to be notified ahead of time of any inquiry or conference, and to be notified in writing of the decision reached at any level.
4. You have the right to reasonable accommodations, including and not limited to language interpreters/translators, auxiliary aids and/or facilities and parking for individuals with disabilities. You are responsible for requesting required accommodations.
5. At any point in time, you have the right to file your complaint with the State or Federal agencies listed in this notice as appropriate. You are responsible to inquire directly with these agencies regarding the steps necessary for redress.

Following is a list of additional entities where you might file a complaint as appropriate:

State of Hawaii
Hawaii Civil Rights Commission
830 Punchbowl Street, Room 411
Honolulu, Hawaii 96813
Telephone (808) 586-8636

U.S. Department of Labor
Office of Contract Compliance Programs
Prince Kuhio Federal Building, Room 7326
300 Ala Moana Boulevard
Honolulu, Hawaii 96850
Telephone (808) 541-2933

U.S. Department of Health and Human Services
Office of Civil Rights, Region IX
90 7th Street, Suite 4-100
San Francisco, California 94103-6705
Telephone (415) 437-8324

U.S. Department of Agriculture
Office of Civil Rights, Room 326-W, Whitten Building
1400 Independence Avenue, SW
Washington, DC 20250-9410 (202) 720 5964 or
Office of Civil Rights Food and Nutrition Service Western Region
90 7th Street, Suite 10-100
San Francisco, CA 94103
Telephone (415) 705-1322 TTY (800) 735-2922

U.S. Department of Justice
Office of Civil Rights
810 7th Street, NW
Washington, D.C. 20531
Telephone (202) 307-0690

U.S. Department of Housing and Urban Development
Office of Civil Rights
451 7th Street, SW
Washington, D.C. 20410
Telephone (202) 708-1112 TTY (202) 708-1455

NOTICE OF NON-RETALIATION REQUIREMENT

Section 704(a) of the Civil Rights Act of 1964, as amended states:

“It shall be unlawful employment practice for an employer to discriminate against any of his/her employees or applicant(s) for employment....because he/she has opposed any practice made an unlawful employment practice by this title, or because he/she has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.”

Persons filing charges of employment discrimination are advised of this non-retaliation requirement and are instructed to notify the Department's Civil Rights Compliance Staff (808) 586-4955 if any attempt at retaliation is made as a result of their filing this complaint.

CONSENT / RELEASE FORM

Your Name: _____

Address: _____

Please read the information below, initial the appropriate space, and sign and date this form on the lines at the bottom of the form.

I understand that in the course of a preliminary inquiry or investigation it might become necessary for the Department of Human Services (DHS), Civil Rights Compliance Staff (CRCS) to reveal my identity to persons at the organization under investigation. I am also aware of the obligations of CRCS to honor requests under the Freedom of Information and Privacy Acts. I understand that it might be necessary for DHS to disclose information, including personally identifying details, which it has gathered as a part of its preliminary inquiry or investigation of my complaint. In addition, I understand that as a complainant I am protected by Federal regulations and DHS policies from retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes.

Initial on the
line above if
you give
consent.

CONSENT GRANTED – I have read and understand the above information and authorize DHS, CRCS, to reveal my identity to persons at the organization under investigation and to Federal or State agencies that provide financial assistance to the organization or also have civil rights compliance oversight responsibilities that cover that organization. I hereby authorize DHS to receive material and information about me pertinent to the investigation of my complaint. This release includes and is not limited to, applications, case files, personal records and medical records. This authorization is effective for one year from the date the authorization is signed. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and I do so voluntarily.

Initial on the line
above if you deny
consent.

CONSENT DENIED – I have read and understand the above information and do not want CRCS to reveal my identity to the organization under investigation, or to review, receive copies of, or discuss material and consent information about me, pertinent to the investigation of my complaint. I understand that this is likely to make the investigation of my complaint and getting all the facts more difficult and, in some cases, impossible, may result in the investigation being close.

Signature

Date

Please return completed, signed and dated form to:

State of Hawaii
Department of Human Services
PERS/CRCS
PO Box 339
Honolulu, Hawaii 96809-0339

Questions may be sent to: gwatts@dhs.hawaii.gov

State of Hawaii
Department of Human Services
COMPLAINT WITHDRAWAL FORM

I, _____ hereby WITHDRAW my Discrimination Complaint
Full Name
signed by me on (Date) _____. I am revoking any consent I might have
granted previously for release of information. I am voluntarily revoking this consent and the
request for an investigation and do not wish to proceed with this complaint. I have received
no promises, rewards or concessions which might have influenced me in withdrawing this
complaint.

Complainant

Date

Note: Please be advised that no one may intimidate, threaten, coerce, or engage in other
discriminatory conduct against anyone because he or she has either taken action or
participated in an action to secure rights protected by civil rights laws. Any individual
alleging such harassment or intimidation may file a complaint with appropriate internal or
external agencies who will investigate such a complaint if the situation warrants.

**Please help us by checking all statements that apply, sign and date and return to
DHS, PERS/CRCS, P.O. Box 339, Honolulu, HI 96809-0339.**

I, the undersigned, wish to withdraw my complaint of discrimination that I filed against
_____ because:

- ___ 1. I no longer wish to pursue my complaint because the issues I raised are now resolved.
- ___ 2. I no longer believe that I have a discrimination complaint.
- ___ 3. I am currently receiving the benefits I am entitled to receive.
- ___ 4. I understand that the changes in current laws prohibit me from receiving benefits.

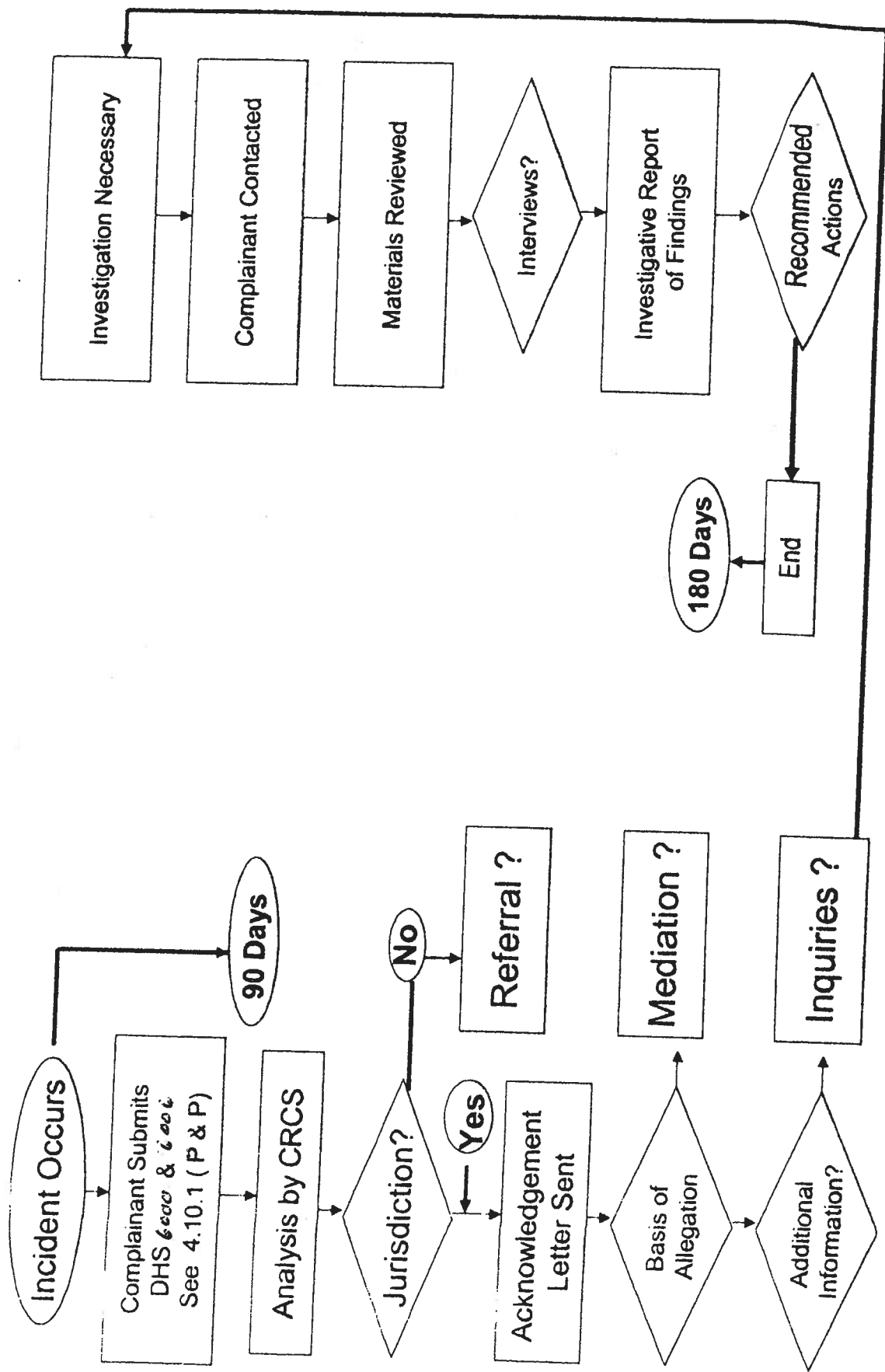
Signature

Date

Questions may be submitted to: gwatts@dhs.hawaii.gov

DHS Discrimination Complaint

Procedures and Timelines



**THE AMERICANS WITH
DISABILITIES ACT**

NOTICE

PROHIBITS DISCRIMINATION

The Department of Human Services (DHS) does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. DHS does not discriminate on the basis of disability in its hiring or employment practices.

This notice is provided as required by Title II of the Americans With Disabilities Act (ADA) of 1990, as amended in 2008.

Questions, concerns, complaints, or requests for additional information regarding the ADA may be forwarded to the DHS Civil Rights Compliance Staff, the Department's ADA Coordinator.

| | |
|------------------------------|---|
| Name: | Geneva Watts |
| Title: | Civil Rights Compliance Staff |
| Office Address: | DHS Personnel Office 1390 Miller Street, Room 214 Honolulu, Hawaii 96813 |
| E-mail: | <u>gwatts@dhs.hawaii.gov</u> |
| Phone Number: | 586-4955 (Voice) 586-4962 (TDD) |
| Days/Hours Available: | Monday--Thursday(except holidays) 7:45 a.m. to 4:30 p.m. |

Individuals who need auxiliary aids and/or an interpreter for effective communication in programs and services of the DHS, are invited to make their needs and preferences known to the Worker, Supervisor, or to DHS' Civil Rights Compliance Office.

This notice is available in large print, or audio tape, and in Braille, from the Civil Rights Compliance Office.

Request for Reasonable Accommodation
Department of Human Services

| | | | |
|---|--|--|--|
| Date: _____ | | Please check one: I am an <input type="checkbox"/> Employee <input type="checkbox"/> Applicant <input type="checkbox"/> Client | |
| My name is: _____ | | I can be reached at: Phone: _____ | |
| My home address is _____ | | E-mail _____ | |
| My work or service address is: Division : _____ | | Section: _____ Unit: _____ | |
| My supervisor is: _____ | | My case worker is: _____ | |

APPLICATION (to be completed by employee, applicant or client)

1. I am requesting the following **specific** accommodation(s): _____
2. It is necessary for me to have this accommodation for the following reason/s: _____

It will help improve DHS services by _____

It will improve my job performance by _____

Requestor Signature

Date

DETERMINATION: Your request of _____ for a reasonable accommodation is:
_____ date

_____ **Approved** Specific approved accommodation: _____

Approx. Cost: _____ (from Division/Section funds)

_____ **Disapproved*** Reason/s Denied: _____

Immediate Supervisor Signature

Date

Division Administrator Signature

Date

*If you disagree with this determination, you may present additional information within 10 (ten) business days of the date that this determination is made to further substantiate your request.
Please call me at _____ discuss the above decision.

_____ Approved _____ Disapproved

Specifics: _____

Personnel Officer _____ Date: _____

How to Request a Reasonable Accommodation
at the
Hawaii Department of Human Services
under the
Americans With Disabilities Act (ADA) , as amended in 2008

(Effective January 1, 2009)

1. Employee or Applicant for employment or services
 - a. Completes, signs and dates DHS Form RA-1 (DATED 03/08)
 - b. Describes what is needed and why
 - c. Describes limitations which make the request necessary
2. Immediate supervisor **recommends** approval or disapproval, estimates cost, signs and dates RA-1. Explains reason denied, if not recommended for approval (i.e. undue hardship and/or business necessity).
3. Division Administrator or Staff Officer **reviews** signs, dates and reserves funds if approval is recommended. If approval is not recommended, reason denied must be given (i.e. undue hardship and/or business necessity).
4. Departmental Personnel Officer **approves or disapproves**, signs and dates.
5. Individual requesting reasonable accommodation has 10 (ten) business days from date signed by Personnel Officer to provide additional information if request is disapproved.
6. When request is approved, completed, signed RA-1 is returned to immediate supervisor/case worker for purchase from divisional/program/office funds.
7. Immediate supervisor notifies Civil Rights Compliance Office via e-mail gwatts@dhs.hawaii.gov when accommodation is completed/purchased.

Note: Available at <http://www.hawaii.gov/dhs> in the Civil Rights Corner are:
DHS Form RA-1 (dated 03/08)
Fact Sheet on Reasonable Accommodation at DHS
Summary of key changes in ADA effective January 1, 2009
Slides expanding on the ADA Amendments Act of 2008
Overview of Performance and Conduct Issues under ADA
Medical Documentation and Reasonable Accommodation Requests under ADA

FACT SHEET

Reasonable Accommodation

What is meant by “reasonable accommodation”

A modification or adjustment to a job, the work environment, or the way job tasks are usually accomplished, to enable a person with a disability to perform the essential functions of a job or position. (applies to employees, applicants for positions and individuals receiving or seeking DHS services.)

What does providing a reasonable accommodation involve?

- ✓ Making facilities accessible
- ✓ Job restructuring, modifying work/service schedules, assignments
- ✓ Acquiring or modifying equipment or devices
- ✓ Adjusting examinations, training materials, or policies
- ✓ Providing qualified readers or interpreters

What are some examples of reasonable accommodations?

Readers, laptops, notebooks, interpreter/translator, assistive devices, audio/video materials, chairs, lifts and others as justified.

How do I request a reasonable accommodation under the ADA, as amended 2008?

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PERS/CRCS/12/08

Summary of Key Changes
Americans with Disabilities Act (ADA), as amended, 2008

| <u>Provision</u> | <u>Original</u> | <u>Addition effective January 1, 2009</u> |
|--|--|--|
| Substantially Limits 42 HSCA §12101(4)(B) | Term disability means a physical or mental impairment that substantially limits one or more major life activity. | "substantially limits" to be interpreted consistently with findings and purposes of of ADA Amendments of 2008 |
| Major Life Activities 12102(2)(A) | None | Major life activities include, and are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. |
| Major Bodily Functions 12102(2)(B) | None | Major life activity also includes the operation of a major bodily function, including and not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive. |
| Episodic or in Remission 12102(4)(D) | None | Impairments that are episodic or in remission are to be considered disabilities if they would substantially limit an individual in a major life activity when active. |
| Mitigating Measures 12102 (3) | None | Determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodation or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. |
| Regarded as 12102 (3) | Term "disability" includes being regarded as having an impairment that substantially limits one or more major life activities. | An individual meets the requirement of being regarded as having a disability because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. An individual cannot be regarded as having a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. Individuals only regarded as disabled are not entitled to reasonable accommodations. |

**Fundamental
Alteration**
12201 (f)

Discrimination includes a failure to make reasonable modifications in policies, practices or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges advantages or accommodations. 302(b)(2)(A)(II)

Reasonable modifications in policies, practices or procedures shall be required, unless an entity can demonstrate that making such modifications in policies, practices or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations involved.

For more information: 586-4955 or gwatts@dhs.hawaii.gov

APPENDIX G

PROGRAM ACCESS OPTIONS

Department of Human Services Facilities

Options Key

- A Alternate site (i.e. home visits)
- B Off-site services (sharing agreements)
- C Rented equipment (vehicle)
- D Special staff assignment
- E DAGS negotiation with landlord
- F DCAB consultation (alterations only)
- G Safe alternative loading zone identified
- H Valet service
- I New or redesigned stalls
- J Replace or modify
- K Enhance directions and signage
- L Up-to-date notices posted and available in handout format to public
(available in alternate format and more than one language as needed)
- M Relocate entrance
- N Install grab bars
- O Remove clutter and relocate file cabinets, clear, wide pathways
- P Install slip resistant
- Q Replace inaccessible hardware
- R Lower counter or provide table at height for wheelchair
- S Lower dispensers
- T Alternate route and process for disability evacuation
- U Repair or remove rust from lift
- V Install/extend ramp
- W Replace and/or repaint signage (directional)
- X Turnaround space allocated; universal handicap sign (paint or mat)
- Y Reschedule/rearrange meeting room/s
- Z Notify public of inaccessibility